Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):

Reference Document

Continuing Federal-Provincial-Territorial
Committee of Officials Responsible for Human Rights

November 1985

Canada

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Convention on the Elimination of All Forms of Discrimination Against Women

REFERENCE DOCUMENT

Continuing Federal-Provincial-Territorial Committee
of Officials Responsible for Human Rights

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Introduction

At the Federal-Provincial-Territorial Ministerial Conference on Human Rights of September 1983, the Continuing Committee of Officials Responsible for Human Rights was asked to develop an analysis of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women.

The undertaking was seen to meet several needs. In ratifying the Convention, Canada assumed an obligation to report to the United Nations on the state of Canadian implementation of the Convention. A reference document developed jointly by jurisdictions in Canada would assist respective governments in Canada to address the terms of the Convention in a cohesive manner through a common understanding of the convention in a Canadian context, even though measures taken to implement the convention will vary from one jurisdiction to another.

It was also envisaged that such a document would help to publicize the Convention and to create a better understanding, by women in particular, the public in general, and governments, of what is involved in implementing the terms of the Convention and to what extent measures might be expected.

Another purpose is to assist in the interpretation of domestic law. It is recognized that where the language of domestic law is open to more than one interpretation, Canada's international obligations should be taken into account in choosing an appropriate meaning. In particular, it was expected that an understanding of Canada's international obligations in regard to

the elimination of discrimination against women would be useful in interpreting Section 15 of the Canadian Charter of Rights and Freedoms, which came into force in April 1985. Since the language of this section is certainly open and general, and to a considerable extent novel in Canadian jurisprudence, an appreciation of Canada's international obligations in regard to such matters as the prohibition of systemic discrimination, the adoption of positive measures and the nature of permissible differentiations could be a significant resource in the interpretation of Section 15.

The document was prepared by a Working Group of the Continuing Committee. At the Federal-Provincial-Territorial Conference on Human Rights in September 1985, Ministers agreed that the document should be made available to interested individuals and organizations.

The reference document does not serve the same purpose as Canada's reports to the United Nations, which document legislation, programs and practices that governments in Canada have already implemented to eliminate discrimination against women, and which spell out the record of implementation of the provisions of the Convention in Canada.

Part A of this document addresses such broad issues as the definition of "discrimination against women," the approach to be taken in interpreting the Convention, the nature and extent of State obligations, and the meaning of "appropriate measures." Relevant authorities are discussed where appropriate.

Part B deals with the more specific rights set out in Articles 7 to 16 of the Convention, and the measures which could be expected from the international community in order to ensure compliance by Canada. The measures listed in the discussion of each article are suggestions only, and are certainly not exhaustive.

Legal Weight of Various International Instruments

Many of the specific obligations contained in the Convention do not have correlatives in other international instruments. Also, since this is a very new convention, there is very little jurisprudence relating to its interpretation. Relevant citations from other international instruments are therefore provided so as to assist the reader in developing an understanding of these particular articles.

It is important to note that conventions ("covenant" or "protocol" is another term for "convention") carry binding legal obligations under international law for those states that are party to the convention in question. With the possible exception of the Universal Declaration of Human Rights (which many scholars and, indeed, some countries, consider to have entered into customary international law), U.N. declarations do not impose binding legal obligations per se under international law. U.N. declarations may bear some legal significance depending on factors such as their method of adoption (i.e., by consensus or by a vote), frequency of use as a point of reference and state practice. It is aspects such as these, rather than the status as a declaration, that determine whether a

U.N. declaration may by custom become recognized as laying down rules binding upon States.

Plans and Programmes of Action are usually adopted as the result of resolutions of the U.N. General Assembly. Resolutions adopted by consensus embody principles on which States are in general agreement, and some aspects may represent general practice and carry some weight under international law. Nevertheless, even in these cases, it may be necessary to consult explanations of votes to determine the weight given by a particular State to the principles concerned. On the other hand, resolutions adopted by a vote, where some countries may have abstained on or voted against the resolution, indicate that there is not sufficient international consensus on the issue. It may also indicate that there are particular sections of the Plan/Programme that countries may not support, even though they agree with the remaining sections.

The Plan of Action of the 1975 Mexico World Conference for International Women's Year and the Programme of Action of the 1980 Mid-Decade Copenhagen World Conference were adopted by resolutions of the General Assembly. Canada, while in agreement with the recommendations for action on behalf of women contained in the Plan and the Programme, abstained on the 1975 resolution endorsing the Plan and voted against the 1980 resolution adopting the Programme because of unacceptable references calling for the elimination of Zionism as a form of racial discrimination.

A list of the various international instruments relating to women and human rights can be found in section A of the selective bibliography.

U.N. Committee on the Elimination of Discrimination Against Women

Article 17(1) of the Convention states:

> For the purpose of considering the progress made in the implementation of the present Convention there shall be established a Committee on the Elimination of Discrimination Against Women (hereinafter referred to as the Committee) consisting ... of 23 experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

Article 18 of the Convention requires States Parties to submit a report to the U.N. within one year of the coming into force of the Convention in their country. Reports cover "the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention," as well as the progress made to comply with the Convention at least every four years thereafter.

Article 20 provides that "the Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted" in accordance with the Convention. These meetings are normally held in New York or Vienna, on an alternating basis, in the months of January, February or March of every year.

In addition to the responsibility of considering the progress made in the implementation of the Convention (Article 17), through an examination of reports from States Parties (Article 18), the Committee "may make

suggestions and general recommendations" to the Economic and Social Council of the United Nations, based on reports and information received from States Parties (Article 21).

There is no provision in the Convention for the Committee to consider complaints by individual women alleging that States Parties have violated their rights pursuant to the Convention. In this regard the jurisdiction of the Committee differs from that of the U.N. Human Rights Committee. Pursuant to the Optional Protocol to the International Covenant on Civil and Political Rights, the U.N. Human Rights Committee may consider communications from individuals, who are subject to the jurisdiction of a State Party, who claim to be victims of a violation by that State Party of a right set forth in the Covenant. Similarly, where a State Party has ratified Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination, an individual complaint mechanism is available. For the most part, however, international human rights treaties do not provide for such individual complaint mechanisms, and so CEDAW is not unusual in this regard.

PART A - GENERAL PROVISIONS

Articles 1 - 6

I. Definition of "discrimination"

Article 1

> For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The following issues will be addressed in regard to the meaning of the phrase "discrimination against women" as used in CEDAW:

(a) Whether the definition is broad enough to preclude systemic discrimination; i.e., differentiations based not directly on sex, but rather on traits correlated with it, such as height or pregnancy or being a part-time worker (or, to put the issue in another way, whether discrimination in both effect and intent is prohibited);

(b) Whether the definition allows reasonable differentiations based on sex, and if so, what is the criterion for determining whether a differentiation is reasonable;

(c) Whether the definition is sufficiently broad to preclude discrimination in all areas of life and in regard to all activities.

(a) Systemic Discrimination

There are several indicators in the Convention that systemic discrimination is included in the concept of discrimination. Most important, Article 1 says that discrimination against women means any distinction which "has the effect or purpose" of impairing their rights (emphasis added). Other indicators within the Convention are the following (emphasis added):

- The title of the Convention is the "Convention on the Elimination of All Forms of Discrimination Against Women."

- In the Preamble, one of the purposes of the Convention is said to be to remove "obstacle(s) to the participation of women, on equal terms with men" in the various areas of life. Certainly in modern society one of the most serious obstacles to such equal participation is systemic discrimination. Other language in the Preamble which supports this interpretation is the reference in the second-last paragraph to the resolve of States Parties to "adopt the measures required for the elimination of such discrimination in all its forms and manifestations."

Indeed, it is interesting to note that in an earlier draft of this paragraph, the phrase "de facto" or "de jure" was used rather than "in

all its forms and manifestations."[1]

- In Article 2, which contains the general prohibition against discrimination, there are again indicators that the prohibition of systemic discrimination is contemplated. Thus, States Parties condemn discrimination against women "in all its forms," and undertake to modify or abolish inter alia "customs and practices" which constitute discrimination against women.

- Some of the Articles which elaborate upon the duties of States Parties in regard to specific areas contain express prohibitions of particular forms of systemic discrimination. For example, Article 11 requires States Parties to ensure that there is equal remuneration for work of equal value, and prohibits discrimination on grounds of pregnancy, maternity leave or marital status.

As well as looking to the various provisions contained within the Convention, it is appropriate to assume that it should be interpreted in the general context of international human rights law. Thus, just as B.G. Ramcharan has argued that "a progressive and dynamic approach" should be adopted in interpreting the concepts of equality and non-discrimination contained in the International Covenant on Civil and Political Rights ("the Covenant"), and that they "are not narrow or formalistic but 'modernistic', and 'egalitarian'," so a similar argument can be made in regard to the interpretation of these concepts as they are used in CEDAW.[2] Certainly the following comments of B.G. Ramcharan on the interpretation of the Covenant

are equally applicable in regard to CEDAW:

> One must keep in mind the philosophy of the United Nations, under whose aegis the Covenant came to life, particularly the importance attached to universal equality of all peoples and persons. The relationship between equality, freedom, justice and peace remains one of the dominant concerns of the United Nations, strengthening the need for a dynamic, progressive approach to the interpretation and application of the principles of equality and non-discrimination contained in the Covenant.[3]

If a dynamic and progressive approach is adopted in interpreting CEDAW, one would expect that an important result would be to include systemic discrimination in the concept of discrimination.

Indeed, Article 26 of the Covenant on equality has already been interpreted by the Human Rights Committee to preclude at least certain forms of systemic discrimination. In the Case of the Mauritian Women, the Human Rights Committee concluded that a law of Mauritius requiring alien husbands but not alien wives of Mauritian nationals to obtain residence permits contravened the anti-discrimination provisions of the Covenant (i.e., Articles 2(1), 3 and 26) in conjunction with Article 23(1), which prohibits arbitrary or unlawful interferences with the family.[4] The State Party pointed out that there was no direct discrimination against the Mauritian women (the "discrimination, if there is any, is based on the sex of the spouse"[5]). However, certainly there was a correlation between their having husbands as spouses and their being women, and the decision of the Human Rights Committee indicates that such indirect or systemic discrimination is precluded by the Covenant.

Thus, Warwick McKean in Equality and Discrimination Under International Law draws the following conclusion about the meaning of "discrimination" in international law:

> A discriminatory motive is not a necessary ingredient of a violation of the principles of equality, though it will make the finding of such a violation easier. As the recent anti-discrimination conventions put it, distinctions are discriminatory if they have "the purpose or effect of nullifying or impairing equality of treatment." 5(a)

(b) Reasonable Differentiations

Article 1 of the Convention provides that "'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex ..." (emphasis added). In other words, there is no express qualification in terms of reasonable differentiations. However, all of the modern jurisprudences relating to equality, both domestic and international, allow for such differentiations. For example, in the Case of the Mauritian Women the Human Rights Committee, in finding that the differential treatment violated the anti-discrimination provisions of the Covenant, noted that "No sufficient justification for this difference has been given."[6]

Indeed, it would not after all be in the interests of common sense nor serve the cause of human rights to preclude reasonable differentiations based on sex. It would not be appropriate, for example, to require employers to hire women to model men's suits or play male roles in theatrical productions. Therefore, it is concluded that reasonable differentiations based on sex are consistent with CEDAW.

What sort of differentiations based on sex are reasonable? The following are some of the issues that arise in this regard:

(i) One important question that arises in the context of employment is whether it is sufficient for an employer to establish some sort of economic rationale for differential treatment in order to justify it as a reasonable differentiation, or, to use language more familiar in the domestic context, as a bona fide occupational requirement. This is certainly an issue of significance in the context of discrimination against women; e.g., in regard to such matters as requiring waitresses to wear suggestive outfits, limiting the fringe benefits of part-time workers, refusing to hire women because of the unavailability of women's washrooms, or dismissing them because of temporary inability to perform job functions due to pregnancy or childbirth. Moreover, it must be noted that this is not an issue that has been consistently or finally resolved in domestic jurisprudence, and therefore it would be particularly useful to have input from the Convention.[7]

Although there is no express resolution of this issue in Article 1 of the Convention, there are certainly indicators in other Articles of how it might be resolved in particular contexts. Thus, where the economic basis for differentiations is the result of stereotyped or exploitative attitudes towards women, there are various provisions of the Convention which indicate that the differentiations might nevertheless be unreasonable and discriminatory. In particular, the following Articles are relevant in this regard:

- Article 5, which requires States Parties to adopt measures to eliminate practices based on stereotyped roles for women;
- Article 6, which requires them to suppress all forms of traffic in women; and
- Article 10, which requires them to adopt measures in the field of education to eliminate stereotyped concepts of the roles of men and women.

Where the economic costs of employing women are related to their family responsibilities, again there are indicators in the Convention that resulting differentiations based on sex would nevertheless be discriminatory. In particular, the following provisions are relevant in this regard:

- The thirteenth paragraph of the Preamble, according to which States Parties are to bear in mind that "the role of women in procreation should not be a basis for discrimination"; and
- Paragraph 2 of Article 11, which requires States Parties to take appropriate measures "in order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work," and to prohibit dismissal on the grounds of pregnancy, maternity leave or marital status.

Therefore, it is concluded that, under the Convention, the fact that there may be a demonstrable economic rationale for a differentiation based on sex does not necessarily mean that it is a reasonable one.

(ii) In domestic jurisprudence the concept of discrimination is primarily applicable to individual conduct, whereas that of equality in the law (variously put as equality before or under the law, or the equal protection or benefit of the law) is the relevant one in regard to legislation. Moreover, the test for reasonable differentiations in regard to discrimination tends to be narrower than in regard to equality in the law. For example, the Supreme Court of Canada has said of bona fide occupational requirements that the reasons for the differential treatment must not be "ulterior or extraneous," but rather related to "the adequate performance of the work involved with all reasonable dispatch, safety and economy."[8] In another case, a human rights tribunal has said that "discrimination presumes a distinction between persons on a basis not related to merit."[9] On the other hand, in its interpretation of the equality before the law provision of the Canadian Bill of Rights, the Supreme Court has adopted the position that any valid federal objective will suffice to justify a challenged differentiation.[10] And in regard to the equality rights in s.15 of the Charter, s.1 on reasonable limitations would appear to be wide-ranging in terms of the nature of the rationale that may be proffered to justify the infringement of a right. The test in regard to the U.S. Equal Protection Clause is similarly unlimited in terms of the nature of the rationale that may be proffered for a differentiation. Thus it has been stated that in "order to justify the use of a suspect classification, a State must show that its purpose or interest is both constitutionally permissible and substantial, and that its use of the classification is 'necessary ... to the accomplishment of its purpose of the safeguarding of its interest'."[11]

It would perhaps be useful to give an example of the practical difference between these two approaches to delineating the nature of reasonable differentiations.

One example that could be given is the retention of membership in an Indian band. Presumably an Indian woman who marries a non-Indian spouse is as qualified and deserving to be a member of the band as an Indian man who marries a non-Indian spouse (assuming their Indian blood quantum and ties to the reserve are similar), so that marriage to a non-Indian male would not appear to give rise to a bona fide qualification within the meaning of human rights legislation (if it were applicable in such circumstances). However, if a law permitting an Indian band to refuse band membership to such women at the band's discretion were evaluated in light of an equality in the law requirement, it would be appropriate to consider not only the interests of the Indian women involved, but also any countervailing considerations, such as the governmental purpose of promoting aboriginal self government. Of course, as indicated in the above discussion of American law, it would be necessary for such a governmental objective to be legitimate, substantial and incapable of being satisfactorily achieved except by use of the adverse differentiation in order for the differentiation to be a constitutionally acceptable one.

Therefore, the question arises of whether the concept of discrimination is univocal (ie, has the same meaning) in the Convention as it applies to individual conduct on the one hand (e.g., in Article 2(b) requiring States Parties to enact legislation prohibiting discrimination against women), and

to legislation on the other hand (e.g., in Article 2(g), requiring States Parties to repeal national penal provisions which constitute discrimination against women). It should be noted that this again is a matter of particular significance in the domestic context because of the issue, as yet unresolved, of whether s.28 of the Charter renders s.1 inapplicable where differentiations are based on sex; i.e., whether the range of reasonable differentiations will be narrower for classifications based on sex than for the other classifications listed in s.15.

Certainly one would assume that the term "discrimination" is used univocally throughout the Convention. On the other hand, what discussion there has been in regard to international requirements of equality and/or anti-discrimination in the enactment of legislation has suggested that the notion of reasonable differentiations may be very similar to that applicable in the domestic equality context. Indeed, reliance has been made on this domestic jurisprudence in interpreting the international provisions. Thus, in the Case "relating to certain aspects of the laws on the use of languages in education in Belgium," the European Court of Human Rights made the following comments on Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which requires States Parties to accord Convention rights in a non-discriminatory manner:

> It is important, then, to look for the criteria which enable a determination to be made as to whether or not a given difference in treatment, concerning of course the exercise of one of the rights and freedoms set forth, contravenes Article 14. On this question the Court, following the principles which may be extracted from the legal practice of a large number of democratic

> States, holds that the principle of equality of treatment is violated if the distinction has no objective and reasonable justification. The existence of such a justification must be assessed in relation to the aim and effects of the measure under consideration, regard being had to the principles which normally prevail in democratic societies. A difference of treatment in the exercise of a right laid down in the Convention must not only pursue a legitimate aim: Article 14 is likewise violated when it is clearly established that there is no reasonable relationship of proportionality between the means employed and the aim sought to be realized.[12]

Although the matter is not of course free from doubt, it is concluded that the test for reasonable differentiations in CEDAW is a narrow one in regard to legislation as well as in regard to individual conduct, comparable to that of bona fide qualifications found in human rights legislation. The same language, that of discrimination, is used both in regard to individual conduct and in regard to legislation, and there is no reason to assume it has a narrower meaning in the former context than in the latter. Moreover, since discrimination against women has been singled out to be the subject of an independent Convention, it is not unreasonable to conclude that the test for reasonable differentiations in this Convention may be stricter than that contained in the general equality provisions of the Covenant. Certainly the test of bona fide qualification suffices to enable governments to avoid the absurdities that would result if they were required to adopt the position that treatment of men and women must be identical, and yet at the same time accords the principle of equality between men and women the moral weight that it must have if the objectives of the Convention are to be accomplished.

(c) Scope of Convention

Article 1 defines "discrimination" as meaning any distinctions which impair the enjoyment by women "of human rights and fundamental freedoms in the political, economic social, cultural, civil or any other field." Clearly, every area of life is covered, but a number of questions arise:

(i) Is it only matters of fundamental importance within these areas that come within the definition of "discrimination"?

The reason this question arises is that it is said to be distinctions giving rise to the impairment of "human rights and fundamental freedoms" that are involved in discrimination. One of two consequences might be thought to follow from this qualification. First, it might be the case that it is only when rights or freedoms of a certain nature or description are infringed that CEDAW comes into play. For example, it might be only such rights and freedoms as those contained in the Canadian Charter of Rights and Freedoms that are involved, and not the sort of rights found in employment or welfare law. Secondly, occasionally human rights commissions are accused of engaging in "trivial pursuits," and it might be thought that the above language provides a basis for such charges; i.e., that only a very grave infringement of a particular right would bring CEDAW into play.

However, a reading of the various Articles dealing with specific areas provides no indication of a "tiered" approach to a prohibition against discrimination. Rather, in regard to the specific areas dealt with in

CEDAW, the Convention refers to the duty "to ensure, on a basis of equality between men and women, the same (or equal) rights..."; i.e., not just the same "human rights and fundamental freedoms." Also, Article 2, which contains the general prohibition against discrimination, refers to the duties of States Parties in regard to "any act (or practice) of discrimination" (emphasis added).

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) contains a similar apparent qualification in its definition of "discrimination." Thus, Article 1 says "racial discrimination" means any distinction which impairs the enjoyment "of human rights and fundamental freedoms" in the various areas of public life. Article 5 of CERD elaborates on this aspect of the definition as follows:

> In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
>
> (a) The right to equal treatment before the tribunals and all other organs administering justice;
>
> (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
>
> (c) Political rights, in particular the rights to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

(vii) The right to freedom of thought, conscience and religion;

(viii) The right to freedom of opinion and expression;

(ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

(ii) The right to form and join trade unions;

(iii) The right to housing;

(iv) The right to public health, medical care, social security and social services;

(v) The right to education and training;

(vi) The right to equal participation in cultural activities;

> (f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.

Karl Josef Partsch makes the following comments on this aspect of the definition of "discrimination" in CERD:

> ... racial discrimination takes place if the enjoyment of human rights is denied (cf. Article 5 of the Convention). Human rights are for this reason listed in the Convention. This catalogue, however, is not limitative but only exemplary. It does not exclude the possibility that racial discrimination may occur where the general rule of equality is not respected.[13]

The "general rule of equality" that Partsch refers to is described earlier by him as the constitutional principle of equality before the law (or what has been referred to above as the principle of equality in the law).[14] Certainly equality in the law is generally accepted as a human right, and jurisprudence relating to it contains no proviso to the effect that it is only unacceptable for the law to treat people unequally if the matter is of a certain description or magnitude. Therefore, it is concluded that at least in regard to the public sector there is no limitation on the scope of the application of CEDAW.

As to the private sector, Article 5 of CERD indicates that if there is any limitation to the scope of the Convention because of the inclusion of the phrase "of human rights and fundamental freedoms" in Article 1, it is not in terms of how grave an infringement of a right there is, but rather in terms of the nature of the right infringed. Moreover, as Partsch indicates, the list of rights provided does not purport to be exhaustive,[15]

even though it is a long one. Therefore, it is concluded that the apparent qualification in Article 1 of CEDAW, to the effect that it must be human rights and fundamental freedoms that are impaired for there to be discrimination within the meaning of CEDAW, is one of uncertain practical effect.

(ii) Do matters of an essentially private and social nature come within the scope of CEDAW?

Human rights legislation typically excepts from its scope certain matters of a private and social nature. For example, in the Canadian Human Rights Act it is in the provision of goods, services, facilities or accommodation "customarily available to the general public" that discrimination is prohibited. Thus the question arises of whether the definition of "discrimination" in CEDAW is such as to authorize such a limitation.

Certainly Article 1 does not expressly do so. In this it appears to differ from Article 2 of CERD, which refers to "political, economic, social, cultural or any other field of public life" (emphasis added). Since much of the discrimination against women takes place within the family, it would be inappropriate to include such a qualification within Article 1 of CEDAW. Indeed, Article 16 of the Convention, on the duty to "eliminate discrimination against women in all matters relating to marriage and family relations," expressly acknowledges that this area of life comes within the scope of the Convention. Thus such issues as family violence and sexual abuse cannot be regarded as outside the scope of the Convention.

On the other hand, even where anti-discrimination provisions do not contain an express qualification to the effect that the private sphere of life is exempt from their ambit, it appears that such a qualification may be found to be implicit. Thus, although Article 26 of the International Covenant on Civil and Political Rights (an article on equality) contains no such express qualification, B.G. Ramcharan nevertheless concludes that it is implicit:

> Discrimination by private individuals was discussed during the consideration of Article 26 in the Third Committee. It was admitted that "some types of individual discrimination were a matter of legitimate personal choice," and it was suggested that "discrimination in private and social relationships ... [does] not come under the law." As against such legitimate "preferences of individuals in their private lives," however, it was strongly denied that "discriminatory practices in matters of everyday life such as housing, restaurants, transport and access to beaches ... were within the realm of private relationships and could not be the subject of legislation ...." The law, it was recognized, "could ensure equal treatment, equal rights and equal obligations as a citizen for every person."
>
> It may be concluded that certain types of discrimination by individuals other than in personal and social relationships would violate the guarantees of the Covenant....[16]

Thus it is probably the case that, subject to the above proviso concerning family relationships, CEDAW is not applicable in private or social relationships. In other words, for example, there is no obligation on the part of States Parties to prohibit discrimination in regard to such matters as dinner invitations or social outings. However, it must also be noted that the scope of this exception from application is unclear.

II. Other Phrases Pertaining to Equality

(a) The principle of equality of men and women

Article 2(a) of CEDAW requires States Parties "to embody the principle of equality of men and women in their national Constitutions or other appropriate legislation...." What is meant by "the principle of equality between men and women"?

In an article entitled "Fundamental Principles of Human Rights: Self Determination, Equality and Non-Discrimination," Karl Josef Partsch characterizes the principle of equality before the law as one limiting discretionary power on the part of government.[17] In other words, it is the international correlative of the domestic principle of equality in the law previously discussed. However, Partsch notes that the constitutional status and substantive content of this principle vary between legal systems so that in the interest of clarity it has largely been replaced in the international legal order by the principle of non-discrimination. Thus he says:

> The close relationships between the principle of equality before the law and the constitutional structure of a given State, the differences between legal systems when the values have to be defined which determine whether an act has to be regarded as "arbitrary" or "socially unjust," and finally, the extremely broad field of application of this principle make it impossible to define it in a manner valid for all national legal systems and for the formation of a sound basis for its universal application.

> In order to avoid these uncertainties and to establish criteria for deciding which facts should be regarded as conforming to the principle of equality, the negative formulation of this principle has progressively gained importance in many national legal systems as well as in international law; with the proscription of discrimination.
>
> The basic consideration in favour of this negative approach is to achieve a higher degree of clarity and certainty in arriving at equality. The non-discrimination clause is not limited to the claim that equality should be reached, but indicates also the notion of what should be equal, and according to what criteria. The abstract notion of equality is replaced by a concrete indication of the field of application and of criteria such as race, colour or descent.[18]

And Partsch concludes by saying:

> In light of these general remarks it is not surprising that in these instruments more attention is given to non-discrimination than to the principle of equality before the law.[19]

Certainly in CEDAW, discrimination is the primary concept. However, the reference in Article 2(a) to the principle of equality between men and women is presumably a specific invocation of what Partsch refers to as the principle of equality before the law; i.e., to the principle that government discretion must be limited so as to preclude arbitrary or socially unjust treatment.

According to Partsch, little more can be specified about the content of this principle. In fact, it is invoked in Article 26 of the Covenant ("All persons are equal before the law and are entitled without any discrimination to the equal protection of the law ..."). Early jurisprudence relating to Article 26 indicates that it applies to the

substantive content of the law as well as to its administration by governmental authorities,[20] and that differentiations are permissible if there is a "sufficient justification" for them.[21] Moreover, it is a principle of general application that applies to all matters and not just to a limited range of rights. Lastly, it would appear to preclude systemic discrimination.[22] The principle of equality between men and women will be similarly interpreted.

(b) De facto equality

Article 4 provides that "special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in this Convention." What is meant by "de facto equality"?

Unlike the concepts of discrimination and equality in the law, de facto equality is not one that States Parties are required to embody in their legislation, whether constitutional or otherwise. Rather, it is a factual state of affairs which it is the aim or objective of the special temporary measure referred to in Article 4(1) of the Convention to achieve. It is interesting to note that in an earlier draft of Article 4, the term "practical" rather than "de facto" was employed.[23] The phrase itself indicates that this state of affairs is one of equal participation by women in the life of society, and equal enjoyment of its benefits. In other words, it is not enough for there to be laws against discrimination, or even for it to have ceased, if the negative consequences of past discrimination remain. Rather, in order for there to be de facto equality,

it is necessary for it to be statistically the case that women have as good jobs as men, are equally involved in the cultural, economic and political life of the community, are not overburdened by the competing responsibilities of work and family, and so on.

Various other provisions in the Convention support the above interpretation of "de facto equality". In particular, the following aspects of the Preamble support it (emphasis added in quotations):

- the third paragraph of the Preamble refers to "the obligation to secure the equal rights of men and women to enjoy all economic social, cultural, civil and political rights";
- the seventh paragraph refers to discrimination as "an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries";
- the eighth paragraph expresses concern "that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs";
- the eleventh paragraph espouses the aim of "the attainment of full equality between men and women"; and
- the twelfth paragraph notes the desirability on various grounds of the achievement of "the maximum participation of women on equal terms with men in all fields".

There is also support for the above interpretation of "de facto equality"

in the following Articles of the Convention (with emphasis added in quotations):

- Article 1 defines "discrimination" as distinctions impairing the "enjoyment or exercise by women" of human rights and fundamental freedoms;
- Article 3 requires States Parties to take measures "to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men";
- Article 4, in which the phrase "de facto equality" is found, provides that special measures aimed at achieving de facto equality shall be discontinued "when the objectives of equality of opportunity and treatment have been achieved";
- Article 24, the "State obligation clause," requires States Parties to adopt all necessary measures "aimed at achieving the full realization of the rights recognized in the present Convention."

Thus it is concluded that the phrase "de facto equality" in Article 4 means a state of affairs in which women participate equally with men in the full ambit of life in society, and equally enjoy its benefits. Moreover, it is concluded that the pervasive presence of this concept throughout the Convention, as outlined above, indicates that it is the underlying aim of the Convention, and one which it is therefore appropriate to take into account in interpreting all of its provisions.

(c) Equality with men before the law

Article 15(1) requires State Parties to accord women "equality with men before the law." This phrase is certainly an ambiguous one. In the Canadian context it is found in the Canadian Bill of Rights, and has been interpreted by the Supreme Court of Canada to mean "equality of treatment in the enforcement and application of the laws of Canada before the law enforcement authorities and the ordinary courts of the land."[24] Partsch, as discussed above, uses the phrase to denote the more general constitutional principle of equality in the law.[25] The Human Rights Committee interpreted this phrase as found in Article 26 of the Covenant in a way similar to that of the Supreme Court of Canada (see above), relying on the phrase "equal protection of the law" in Article 26 to refer to that portion of the constitutional principle of equality which requires equality in the substantive content of the law. Thus, B.G. Ramcharan notes as follows:

> During the examination of the report of the United Kingdom [by the Human Rights Committee], it was pointed out that the authors of the report had used Dicey's concept of equality before the law as part of "the rule of law," that is, equality before the courts. The discussion of the report supported the view that while equality before the courts was indeed included in Article 26 and was expressly required by Article 14 of the Covenant [which requires that "All persons shall be equal before the courts and tribunals"], Article 26 referred not only to equality before the courts but also to the general "egalitarian" concept of "equal protection of the law" in the sense of non-discrimination.[26]

Presumably, "equality before the law" in CEDAW has the same meaning as that phrase when it is used in Article 26 of the Covenant: i.e., it requires that there be equality between men and women in the administration of the law, particularly as it is applied by the courts and other tribunals.

(d) Equal legal capacity

Article 15(2) requires States Parties to accord women, in civil matters, a "legal capacity identical to that of men." How does this concept of equal legal capacity differ from that of equality before the law found in Article 15(1)?

The two concepts may be regarded as opposite sides of the same coin. Equality before the law requires that when States Parties apply the law, they must do so equally as between men and women. Thus, for example, if there is a law that parents must provide the necessaries of life to their children, this law must be applied equally to separated parents. Equal legal capacity, on the other hand, requires that when a woman takes an initiative that would have certain legal consequences if undertaken by a man, then it must have the same consequences in her circumstances. Thus, for example, if a woman enters an agreement it must be as legally binding as if entered by a man, and if she seeks the aid of a court she must be as capable of bringing a legal action as a man. To make this same distinction in vernacular terms, it might be said that equality before the law is the applicable concept when the ball is in the State Party's court, whereas equal legal capacity is the relevant concept when the ball is in the

individual woman's court.

(e) Ensuring, on a basis of equality between men and women, the same or equal rights

Many of the Articles in CEDAW begin by requiring States Parties to take all appropriate measures to eliminate discrimination against women in a specific area "in order to ensure, on a basis of equality of men and women, the same (or equal) rights..." (Articles 7, 8, 10, 11, 12, 13 and 16). The central question that arises in regard to this recurrent clause is which of the following meanings is to be attributed to it:

(i) that women must have the same legal opportunities as men in the specified area; e.g., that if men have the legal right to become medical doctors, so must women;

(ii) that women must have the same practical opportunities as men in a specified area; e.g., that there must not be such obstacles as sexual stereotyping or lack of funding for female medical students to prevent women from choosing to become doctors;

(iii) that women must in fact participate equally in specific areas; e.g., that there must be as many women as men who are medical doctors.

There are many features of the Convention that indicate that (i) is not the appropriate meaning to attribute to this recurring clause found in it. Most important, Article 24, the general State obligation clause of the Convention, requires States Parties to adopt all necessary measures to achieve "the full realization of the rights recognized in the present

Convention" (emphasis added). Other features of the Convention which indicate that a broader interpretation of this clause is required are the following:

- the references to the enjoyment (Preamble, Articles 1, 3 and 14(h)), exercise (Articles 1, 3 and 15(2)) and full or practical realization of rights (Article 2(a));
- the references to the notions of full equality (Preamble), participation in activities (Preamble, Articles 7, 8, 11, 13 and 14), access to facilities (Preamble, Articles 10, 12 and 14), and opportunities to participate or have access (Articles 4, 10, 11 and 15).

The issue remains, however, of whether interpretation (ii) or (iii) of the clause "in order to ensure, on a basis of equality between men and women, the same rights" is to be preferred. In other words, is it the obligation of States Parties to ensure that men and women have the same opportunities in the various areas of endeavour, or must they ensure that they are in fact equally represented in them?

Certainly these two interpretations are in practice closely related - the best evidence that women have equal opportunities in a particular area is that they are in fact equally represented in it. Moreover, it has been assumed above that the central aim of the Convention is the achievement of de facto equality between men and women; i.e., their equal participation in the full ambit of the life of a society, and equal enjoyment of its benefits. However, it should be noted that although de facto equality

would require an equal overall participation in the life of society on the part of men and women, it would not necessarily entail an exactly equal participation by them in each aspect of its life. Differences in predilection between men and women might result in a larger representation by men in certain areas, or by women in others. This is not to say, of course, that existing predilections are necessarily compatible with the aims of CEDAW, because it is expected that if attitudes of sexual stereotyping were eliminated, many of these existing patterns of preference would disappear. Also, it must be noted that in certain areas it would be much more difficult to justify differences in participation rates than in others, e.g., in regard to membership in Parliament compared to participation on a football team. However, subject to these provisos, and although the matter is by no means free from doubt, it is concluded that interpretation (ii) is preferable.

(f) All appropriate measures

(i) Nature of measures to be adopted

Many Articles in CEDAW require States Parties to take all appropriate measures to implement the particular rights in question. This would appear to be a very wide-ranging requirement in terms of the nature of the measures to be adopted, and there is nothing in the context of the Convention to indicate otherwise.

Thus appropriate measures would include not only those with the aim of preventing any further discrimination, including systemic discrimination, from occurring against women, but also those with the aim of remedying the continuing effects of past discrimination so as to ensure the achievement of de facto equality between men and women.

In regard to the aim of preventing discrimination, it would be primarily negative measures that it would be necessary to adopt, although in certain circumstances positive measures might also be appropriate, e.g., educational measures aimed at changing the stereotyped concepts and prejudices that give rise to discrimination. In regard to the aim of achieving de facto equality, it would be primarily positive measures that would be required, although there might be certain circumstances where negative measures would be appropriate. As to the various sorts of positive measures it might be appropriate to take, see the discussion at page 420.

As to the legal mode that the measures might take, Article 2(a) contemplates the adoption of constitutional measures, and Article 2(b), (f) and (g) and Article 6 expressly require the adoption of legislative measures. There are various other Articles which it might be appropriate to implement by means of legislation. Administrative measures would also in many circumstances provide an important vehicle for implementing

Convention rights.

As to the content of the measures, again there would be a great variety available, including the following: research into the causes, extent and manner of remedying inequalities between men and women; education to remove prejudices and provide job skills; the funding of private activities with the aim of promoting the welfare of women; the making of necessary federal-provincial arrangements; the provision of services such as child care and health care; the prohibition of discrimination in the private and public spheres; and the establishment of effective monitoring mechanisms and adequate remedies to ensure that such prohibitions have some practical effect.

(ii) Latitude of States Parties in the manner of implementing CEDAW

The issue now to be considered is the degree of latitude that the phrase "States Parties shall take all appropriate measures..." gives to States Parties in the manner in which they implement Convention rights. There are two main points to be made in this regard.

The first is that from one perspective this phrase can be viewed as requiring a very full implementation of Convention rights by States Parties. Thus they are required to take all appropriate measures. Furthermore, the use of the term "appropriate," which

is defined in the Oxford Dictionary to mean "specially fitted or suitable," would suggest that States Parties must take measures that will be sufficient or likely to be successful in achieving the objective or desired result, within the particular cultural or social context.

The second is that from another perspective the use of this phrase also suggests that States Parties are given considerable latitude or discretion as to the nature of measures that may be adopted, so long as their aim is full implementation. Thus States Parties may take into account local cultural and social realities in designing programs to improve the situation of women. Furthermore, presumably less extensive measures would be required of States Parties with very limited resources than of affluent States Parties.

It would be undesirable, however, to rely on the phrase "appropriate measures" in such a manner as to vitiate the obligations of States Parties pursuant to the Convention. Thus the following comments of Warwick McKean in Equality and Discrimination Under International Law (emphasis added) would appear to go too far:

> It is important to note that this Convention is promotional and programmatic; it does not impose immediate binding legal obligations but requires parties to take "all appropriate measures"; it does not establish machinery to investigate complaints of non-compliance. In these respects it is a much weaker

> and more conservative instrument than some earlier conventions.[26a]

This view of the degree of exigency of CEDAW's requirements cannot be accepted without significant qualification. First, it must be assumed that when an international convention comes into force it imposes legal obligations on the States Parties to it. Second, it is interesting to note that the International Covenant on Economic, Social and Cultural Rights is much more express in permitting a gradual implementation of the rights set out in it. Thus Article 2(1) requires each State Party "to take steps...to the maximum of its available resources with a view to achieving progressively the full realization of the rights recognized in the present Covenant," and Article 2(3) provides that developing countries may, "with due regard to human rights and their national economy," determine the extent to which the economic rights of the Covenant apply to non-nationals. One possible explanation for the difference in approach between the two treaties is that in many situations the terms of CEDAW require not so much that additional resources be expended as that existing ones be allocated in a more equitable manner between men and women.

III. The General Duty to Prohibit Discrimination Against Women

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

a) To embody the principle of the equality of men and women in their national Constitutions or other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Paragraph 2(a)

Paragraph 2(a) requires States Parties to embody the principle of equality between men and women in their Constitutions or other appropriate legislation. The nature of this principle has been discussed above: it is a constitutional principle in the sense that it relates to the exercise of legislative and administrative discretion by government; it is applicable to the substance of laws as well as to their administration by governments; it applies to all matters, not just to a certain limited set of rights; the doctrine of reasonable differentiations is a relatively broad one in regard to it; and it appears to preclude systemic as well as direct discrimination.

As indicated by Partsch, the varying constitutional structures of States have resulted in this principle being incorporated in varying manners into their legal systems.[27] This accounts for the requirement that it be embodied "in their Constitutions or other appropriate legislation" (emphasis added). As to the second option, presumably legislation such as the Canadian Bill of Rights would be an appropriate means of implementing this principle.

States Parties are also to secure the practical realization of this principle, through law and other means. Presumably, this means that States Parties are not to infringe the principle, and also that they are to ensure that there is an effective mode of redress for individuals if they should do so.

Paragraphs (b) to (g)

These paragraphs require States Parties (i) to enact laws prohibiting discrimination against women in the private sector (paragraphs (b), (e) and (f)); (ii) to enact laws prohibiting discrimination against women in the public sector (paragraphs (b) and d)); (iii) to ensure that there are effective remedies in regard to anti-discrimination laws (paragraph (c)); and (iv) to render ineffective any laws and regulations which are discriminatory, including penal laws (paragraphs (f) and (g)).

One question that arises is the relationship between paragraph (a), which requires States Parties to include in their Constitution or other appropriate legislation the principle of equality between men and women, and paragraphs (f) and (g), which require them to repeal discriminatory laws. As discussed above, the test for reasonable differentiations is narrower in regard to discrimination than in regard to equality in the law. Therefore, there might appear to be some inconsistency in the Convention as to the stance States Parties are to take in regard to the nature of permissible differentiations based on sex in their legislation. Paragraph (a), on the one hand, suggests that it is permissible for States Parties to differentiate between men and women in order to further countervailing interests of whatever nature on the part of government. On the other hand, paragraphs (f) and (g), in requiring the repeal of discriminatory laws, indicate that it is only if the differentiations are based on bona fide qualifications in regard to the matter at hand that they are acceptable.

Perhaps this apparent conflict can be resolved as follows. As indicated by Partsch, the practice of States has by no means been consistent as to the definition of the principle of equality, nor to the manner of ensuring that it is respected in their legal systems.[24] Therefore, the Convention allows some leeway in regard to the second issue, and in regard to the first does not require the strictest possible definition. However, as to the actual practice of States Parties in regard to the nature of their legislation, any differentiations based on sex must be the result of bona fide qualifications in regard to the matter at hand if they are to be acceptable.

IV. Positive Measures to Secure the Practical Equality of Women in Society

Article 3

States Parties shall take in all fields, in particular, in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in this Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

The issue in this section is the extent to which States Parties have the obligation, not just to prohibit discrimination in the private sector and refrain from discriminating themselves, but also to adopt positive measures aimed at achieving the de facto equality of women and men in society. The Articles of central importance in this regard are Articles 3 and 4, but reference must also be made to relevant portions of the Preamble and other Articles of the Convention.

Article 3 requires States Parties to take appropriate measures in order to ensure the full development and advancement of women, for the purpose of guaranteeing their human rights and fundamental freedoms on an equal basis

with men. Thus two questions arise: the nature of the measures to be adopted, and in what circumstances they are required. These questions will be considered in reverse order.

(a) When measures are required

The objective to be served by these measures would appear to be the achievement of de facto equality as defined above. Certainly the language used in Article 3 is consistent with this interpretation; it also fits nicely with the reference to de facto equality in Article 4, and with the conclusion reached above that the achievement of de facto equality is the underlying aim of the entire Convention. Therefore, it is concluded that Article 3 requires that appropriate measures be taken by States Parties so long as the situation of women is not one of de facto equality with men. Thus, it should be noted, it becomes very important to have objective and reliable statistical information about the actual situation of women in a given society, in order to assess the extent of the State Party's obligation to adopt appropriate measures to remedy whatever inequalities may exist.

(b) Nature of positive measures

As to the nature of the positive measures that are to be adopted to accomplish this objective, there are no apparent limitations. Indeed, since present day discrimination against women remains a significant factor in their lack of de facto equality with men, Article 3 might be regarded as

broad enough to encompass Article 2 on the duty of States Parties to eliminate discrimination against women, as well as requiring them to adopt positive measures to promote their advancement. However, since Article 2 details the nature of the general duty to eliminate discrimination against women, it is the nature of the positive measures to be adopted by States Parties pursuant to Article 3 which will now be considered.

That Article 3 requires the adoption of positive measures by States Parties would appear clear in light of the following considerations (emphasis added in quotations):

- Article 3 requires the adoption of "all appropriate measures" to promote the full development and advancement of women.
- The general duty to eliminate discrimination, i.e., to adopt measures of a negative nature, is already provided for in Article 2.
- There are various phrases in the Preamble which indicate an obligation on the part of States Parties to take positive measures to improve the position of women in their respective societies. In the third paragraph, States Parties are said to have "the obligation to secure the equal rights of men and women to enjoy all economic, social, cultural and political rights", and in the fourth, fifth and ninth paragraphs references are made to the promotion of women's rights.
- Many of the Articles dealing with specific areas contain requirements that States Parties adopt positive measures in these areas (see examples below).

As to the nature of the positive measures that States Parties must adopt, Article 3 is broad enough to cover measures that are not specifically aimed

at women, but that nevertheless significantly contribute to their well-being. In other words, it covers some measures that do not come within the terms of either paragraph (1) or (2) of Article 4. Some examples of such measures are found in the following more specific Articles of CEDAW:

- Article 5, which requires States Parties to modify the attitudes of both men and women as to their appropriate roles in society;
- Article 11(1), which requires States Parties to ensure men and women equally the right to work (paragraph (a)), to social security (paragraph (e)) and to healthy working conditions (paragraph (f));
- Article 14(2)(h), which requires States Parties to ensure that there are adequate living conditions in rural areas.

As to positive measures that are aimed at women, these may be of at least two sorts. First, they may be temporary measures adopted in order to remedy the effects of past discrimination. For example, Article 14(2)(a) requires States Parties to help rural women to organize self-help groups and cooperatives in order to obtain equal access to economic opportunities.

It is noteworthy in this regard that Article 4(1) makes it clear that such temporary measures are not to be considered discriminatory. Since CEDAW is a Convention concerned solely with discrimination against women, presumably the import of Article 4(1) is not so much that the Committee on the Elimination of the Discrimination against Women is not to consider these temporary measures discriminatory within the terms of CEDAW, but rather that States Parties are not to consider such measures to constitute discrimination against men within their respective domestic legal systems.

Thus it would appear necessary for States Parties to include in their human rights legislation such qualifications as that found in s.15(1) of the Canadian Human Rights Act,[28] and in their constitutional statements of the principle of equality such qualifications as that found in s.15(2) of the Canadian Charter of Rights and Freedoms.[29]

There are also positive measures to promote the advancement of women which in the nature of things must be permanent features of the legal system. These are ones which reflect the role of women in childbearing. Thus Article 11(1)(f) requires States Parties to take measures in the workplace to safeguard the function of reproduction, and Article 11(2) to provide for maternity leave, encourage the provision of child care facilities, and provide protection during pregnancy in types of work proved to be harmful to pregnant women. Also, Article 12(2) requires States Parties to ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period.

Article 4(2) provides that such special measures aimed at protecting maternity shall not be considered discriminatory. Again, this provision, like that in Article 4(1) discussed above, would appear to require provisions in human rights legislation comparable to s.15(1) of the Canadian Human Rights Act, and in constitutional enactments provisions comparable to s.15(2) of the Charter.

V. Article 23

> Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained
>
> (a) in the legislation of a State Party; or
> (b) in any other international convention, treaty or agreement in force that State.

Article 23 provides that if the provisions of domestic law or of other international instruments are more conducive to achievement of equality between men and women than those of CEDAW, they shall not be affected by the latter. In other words, it indicates that States Parties must not reduce protection to women's rights, whether at the domestic or international level, on the pretext that certain forms of protection are not required by CEDAW. This might perhaps entail the result that they should also not use its provisions to argue for an interpretation of domestic law that is less conducive to the achievement of equality between men and women than an alternative interpretation which is also available.

VI. Article 24

> States parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized at the present Convention.

The structure of CEDAW is different from that of the International Covenant on Civil and Political Rights in the manner in which the nature of State obligations is set out. The Civil and Political Covenant sets out the various rights in Articles 6 to 27, and indicates in Article 2, the general State obligation clause, what steps States Parties must take to respect

these rights. In CEDAW, on the other hand, each Article not only sets out certain rights, but also indicates what measures States Parties must take to implement them. There is also, however, a general State obligation clause in Article 24.

It is not entirely clear how the statements of State obligation in the specific Articles in CEDAW correlate with the general statement of State obligations in Article 24. As indicated above, in most of the specific Articles States Parties are said to be obliged to take "all appropriate measures" to implement rights, whereas in Article 24, they are said to be obliged to take "all necessary measures." Are there any differences between these two requirements? Perhaps one difference is that suggested above in the discussion of the phrase "all appropriate measures." Where this phrase might in certain circumstances suggest that considerations of economic cost be taken into account in implementing rights, Article 24 would indicate that, nevertheless, at least certain basic and minimal steps must be taken in all cases.

Article 24 also provides that States Parties must take all necessary measures to achieve "the full realization of rights" contained in CEDAW, a phrase which does not occur in the Articles setting out specific rights. The use of this phrase in Article 24 would, however, reinforce the conclusions reached above, in the discussions of Articles 1 and 3, that systemic discrimination is precluded by CEDAW, and that the aim of CEDAW is not only to ensure that a just set of laws obtains in States Parties, but furthermore that the factual state of affairs is one of equal participation

by women in the life of society, and equal enjoyment of its benefits. It does not, of course, follow that a State Party in which this aim has not as yet been achieved is in breach of CEDAW, so long as appropriate and necessary measures are being taken by it in a bona fide attempt to promote the equal rights of women.

FOOTNOTES

1. Report of Working Group of the Whole on Drafting of the Convention on Elimination of Discrimination Against Women, A/C.3/32/L.59 at p. 12.

2. B.G. Ramcharan, "Equality and Nondiscrimination" in The International Bill of Rights, ed. Louis Henkin (New York: Columbia University Press, 1981) at 269.

3. Ibid.

4. Communication No. R. 9/35 [1981], Report of the Human Rights Committee, 134.

5. Ibid at 136.

5(a). McKean, Warwick, Equality and Discrimination under International Law (Oxford: Clarendon Press, 1983).

6. Ibid at 141.

7. See, for example, Carson et al. v. Air Canada (1984), 5 C.H.R.R. D/1857 (rev. Trib.); Waplington v. Maloney Steel Ltd. (1983), 4 C.H.R.R. D/1262 (Bd. Inq.); Manitoba Food and Commercial Workers Union v. Canada Safeway Ltd. (1983), 4 C.H.R.R. D/1495 (Bd. Adj.) and Ballantyne v. Molly 'N' Me Tavern (1983), 4 C.H.R.R. D/1191 (Bd. Inq.).

8. Ontario Human Rights Commission et al. v. Borough of Etobicoke [1982], 1 S.C.R. 202 at 208.

9. Carson et al. v. Air Canada, supra note 6 at D/1867.

10. Bliss v. Attorney General of Canada [1979], 1 S.C.R. 183 at 190.

11. In re Griffiths, 413 U.S. 717, 722-23 (1973) (S. Ct.).

12. Decision of the European Court of Human Rights, July 23, 1968, at 34.

13. Karl Josef Partsch, "Fundamental Principles of Human Rights: Self-Determination, Equality and Non-Discrimination," in The International Dimensions of Human Rights, ed. Karel Vasak, Vol. I (Westport, Connecticut: Greenwood Press, 1982) at 78.

14. Ibid at 68-69.

15. Supra note 13.

16. Supra note 2 at 262.

17. Supra note 13 at 68.

18. Ibid at 69.

19. Ibid at 70.

20. Supra note 4.

21. Supra note 6.

22. Supra note 4.

23. Supra note 1.

24. Attorney General of Canada v. Lavell et al. [1974], S.C.R. 1349 at 1373.

25. Supra note 13 at 68.

26. Supra note 2 at 255.

26(a). Supra note 5a at 193.

27. Supra note 13 at 69.

28. Section 15(1) of the Canadian Human Rights Act reads as follows:

> 15(1) It is not a discriminatory practice for a person to adopt or carry out a special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, national or ethnic origin, colour, religion, age, sex, marital status, family status or disability of members of that group, by improving opportunities respecting goods, services, facilities accommodation or employment in relation to that group.

29. Section 15 of the Charter reads as follows:

> 15.(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
>
> (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

30. Report of the Working Group of the Whole on the Drafting of the Convention on the Elimination of Discrimination Against Women, A/34/60 at p.16.

PART B

I. Penal Laws

Article 2(g)

To repeal all national penal provisions which constitute discrimination against women.

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

> Article 7
>
> All provisions of penal codes which constitute discrimination against women shall be repealed.

(b) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by the vote of 48-0-8 (Canada in favour).

> Article 7
>
> All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

2. Commentary

The term "national provisions" is understood to mean domestic provisions. Therefore, "all national penal provisions" could be construed to include provincial and municipal penal legislation,

as well as the federal Criminal Code as interpreted by case law. This article may also refer to programs and services provided to female offenders and victims.

It should be noted that the equality provisions of the Canadian Charter of Rights and Freedoms would also require the correction of discriminatory legislation and practices.

Penal provisions identified as being of particular concern to women include those regarding pornography, soliciting for the purpose of prostitution, sexual assault, abortion and wife battering.

Other penal provisions relating to women include those regarding the sexual exploitation of young people and the impact of certain rules of evidence on women. The lack of research on these issues, or of the gender-specific impact of major penal provisions in general, is a question to be addressed.

3. Jurisdiction Among Governments in Canada

Responsibility for national criminal provisions lies with the government of Canada and is embodied in the Criminal Code. The provincial governments also enact penal legislation of a non-criminal nature, such as traffic regulations. Both levels of government are also responsible for programs and services.

4. Appropriate Measures for Implementation

(i) legislative measures

- the repeal of any penal provisions which contravene section 15 of the Charter.

(ii) research studies

- identification of any penal provisions, sentencing practices and governing judicial decisions which constitute discrimination against female offenders, victims and witnesses, in their application or impact.

II. Article 5:

Stereotyping

5(a) States Parties shall take all appropriate measures: ... To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women....

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 3

All appropriate measures shall be taken to educate public opinion and to direct national aspirations towards the eradication of prejudice and the abolition of customary and all other practices which are based on the idea of the inferiority of women.

2. Commentary

It is assumed that "social and cultural patterns of conduct" refers to interpersonal relations or manners of dealing with one another in any area of life, such as a credit manager's attitude to women clients or media portrayals of women.

Stereotypes of the roles of women and men are a reality of Canadian society. (Sex-role stereotyping in education is discussed under Article 10(c)). The process of eliminating stereotyped social and cultural patterns which involve stereo-

typing is a gradual one, and it is difficult to measure its results. The impact and constraints of stereotypes are widespread, and in fact are recognized as contributing to the poverty of older women and single mothers through lower rates of pay, job concentration in lower-paid occupations and poor pension benefits.

3. Jurisdiction Among Governments in Canada

The responsibility for the introduction of measures to modify social and cultural conduct and attitudes is shared by federal and provincial jurisdictions.

4. Appropriate Measures for Implementation

(i) information/education campaigns

- establishing information and education campaigns to combat sex-role stereotyping, particularly in relation to women in non-traditional occupations.

(ii) research studies

- assessing the effectiveness of existing media guidelines and monitoring mechanisms;

- assessing the effectiveness of guidelines with respect to government advertising and communications;
- assessing public attitudes on sex roles on a regular basis;
- addressing the impact of pornography as an extreme form of sexual stereotyping.

(iii) policy statements

- programs and policies to combat sexual harassment.

Family Education

Article 5(b)

States Parties shall take all appropriate measures: ... To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

1. Other International Documents

(a) O.E.C.D. Declaration on Policies for the Employment of Women: agreed to by Canada on 17 April 1980.

Preamble

... men and women have the joint responsibility for the upbringing and care of children....

(b) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 6.2(c)

All appropriate measures shall be taken to ensure the principle of equality of status of the husband and wife, and in particular:

(c) Parents shall have equal rights and duties in matters relating to their children. In all cases the interest of the children shall be paramount.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 130

...During marriage the principle of equal rights and responsibilities would mean that both partners should perform an active role in the home, taking into account the importance of combining home and work responsibilities, and share jointly decision-making on matters affecting the family and children.

2. Commentary

The phrase "maternity as a social function" is understood to refer to the principle that maternity is a necessary and desirable function of society, and that family responsibilities should not rest with women alone, but also with their male partners and with society.

This article would appear to require that the curriculum of family life education in Canada be non-sexist and emphasize the

common responsibilities of both parents with respect to child care.

3. Jurisdiction Among Governments in Canada

In regard to the area of education, section 93 of the Constitution Act, 1867 provides that "in and for each Province the Legislature may exclusively make laws in relation to education," subject to certain qualifications in regard to denominational schools or separate or dissentient schools.

The Government of Canada also assumes some responsibilities in the area of education, notably with regard to the Indian people, in relation to whom it has jurisdiction by virtue of section 91(24) of the Constitution Act, 1867 which gives the Parliament of Canada exclusive authority to legislate in favour of Indians and lands reserved for Indians. The Government of Canada provides a significant contribution to the financing of education and specific occupational training within the province.

4. Appropriate Measures for Implementation

(1) research studies

- examining the priority, extent and quality of family education given to children in the educational system;
- analysing whether the curriculum includes "the recognition of the common responsibility of men and women in the upbringing and development of their children";

- conducting public education campaigns to eliminate sex-based stereotypes.

III. Article 6:

Prostitution

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all its forms.

(b) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 8

All appropriate measures, including legislation, shall be taken to combat all forms of traffic in women and exploitation of prostitution of women.

(c) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 8

1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.

(d) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 159

Specific legislative and other measures should be taken to combat prostitution and the illicit traffic in women, especially young girls. Special programmes, including pilot projects, should be developed in co-operation with international bodies and non-governmental organizations to prevent such practices and rehabilitate the victims.

2. Commentary

The wording of this article focuses on the exploitation of prostitution and traffic in women. It does not seek to ban prostitution per se, but obliges States Parties to attack such exploitive activities as pimping and procuring for the purpose of prostitution.

3. Jurisdiction Among Governments in Canada

While the government of Canada has jurisdiction over criminal legislation, provincial governments are responsible for the enforcement of the criminal law as well as legislation governing employment standards. Municipal governments also have certain regulatory powers in this area.

4. Appropriate Measures for Implementation

(i) legislative measures

- effective enforcement, investigation and prosecution of breaches of legislative provisions dealing with procurement for the purpose of prostitution and living off the avails of prostitution.

IV. Article 7

Political Rights

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies....

1. Other International Documents

(a) Convention on the Political Rights of Women: adopted on 31 March 1953 by the General Assembly; in force on 7 July 1954; acceded to by Canada on 30 January 1957.

Article 1

Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.

Article 2

Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.

(b) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 4

All appropriate measures shall be taken to ensure to women on equal terms with men, without any discrimination:

(a) the right to vote in all elections and be eligible for election to all publicly elected bodies;
(b) the right to vote in all public referenda ....

(c) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 25(b)

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without reasonable restrictions:

(b) to vote and to be elected at genuine periodic elections which shall be universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

(d) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 59

Participation in political life implies participation as voters, lobbyists, elected representatives, trade-unionists and public officials in the various branches of government, including the judiciary.

Paragraph 60

Where legislation does not exist guaranteeing women the right to vote, to be eligible for election and to hold all public offices and exercise public functions on equal terms with men, every effort should be made to enact it by 1978.

(e) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 21(3)

The will of the people shall be the basis for the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

2. Commentary

Given the discussion under Part I, States Parties are likely obliged to eliminate any systemic discrimination which may effectively prevent women from exercising their right to vote and to be candidates for public office, such as lack of support to meet parental obligations, inflexible meeting times, etc.

3. Jurisdiction Among Governments in Canada

The right of Canadians to vote and to be eligible for election is protected constitutionally. Each jurisdiction has legislation governing the candidacy and election of Canadians to the appropriate legislative body.

The responsibilities to provide access to public office and public service, and to perform all public functions, are governed by various federal/provincial/territorial appointments, by collective bargaining and by civil service Acts.

Appointments to the judiciary are the responsibility of both the federal and provincial governments.

Each level of government has jurisdiction to establish agencies or offices to encourage the participation of women in non-governmental organizations and associations.

4. Appropriate Measures for Implementation

(i) special temporary measures

- positive measures to encourage a more rapid increase of qualified female candidates for public office;
- on-going review of political participation by women, and of the causes of any discrepancies in the level of participation of women and men;
- elimination of legislative obstacles to voting rights and eligibility for public office;
- identification and elimination of systemic obstacles.

Article 7(b)

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure, on equal terms with men, the right:

(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 21(1-2)

1. Everyone has the right to take part in the Government of his country, directly or through
2. Everyone has the right of equal access to public service in his country.

(b) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 25(a),(c):

Every citizen shall have the right and the opportunity without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:

(a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
(c) to have access, on general terms of equality, to public service in his country.

(c) Women in Public Life: UN Resolution 37/61: adopted by the General Assembly on 3 December 1982 without a vote.

Article 2

The General Assembly:

2. Calls upon all member States, by the end of the United Nations Decade for Women in 1985, to make special efforts to nominate and appoint women, on an equal basis with men and taking due account of the same professional criteria, to decision-making positions in those national and international bodies in which they are not equitably represented.

(d) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 4(c)

All appropriate measures shall be taken to ensure to women on equal terms with men, without any discrimination:

(c) The right to hold public office and to exercise all public functions. Such rights shall be guaranteed by legislation.

(e) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 59

Participation in political life implies participation as voters, lobbyists, elected representatives, trade-unionists and public officials in the various branches of government, including the judiciary.

Paragraph 61

Where special qualifications for holding public office are required, they should apply to both sexes equally and should relate only to the expertise necessary for performing the specific functions of the office.

2. Commentary

It should be noted here that the "public office/public functions" principle has been defined as covering "all the functions of government--legislative, executive and judicial"; and that the executive branch has been further defined as comprising "all

posts and functions involved in the actual administration of the government, whether elective, appointive or hereditary."*

Article 7(b) requires States Parties to ensure the achievement of a specific goal, rather than merely removing any legal obstacles to equality of opportunity: "...shall ensure, on equal terms with men, the right ... to participate " in decision-making and public functions.

In other words, the Article requires States Parties to ensure the de facto equality of women in public life. Reference should be made to Article 3, which requires States Parties "to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men," and Article 24, which requires States Parties to adopt all necessary measures "aimed at achieving the full realization of the rights recognized in the present Convention." That de facto equality is the underlying aim of the Convention is also discussed in Part A of this interpretation.

3. Appropriate Measures for Implementation

(i) administrative measures

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* The Convention on the Political Rights of Women: History and Commentary, (United Nations Document ST/SOA/27), 1955. p. 24 and p. 26.

- provision of child care and support services to make the participation of women in these tasks more feasible.

(ii) special temporary measures

- affirmative action programs with appropriate monitoring at the senior levels of the public service, within political parties, and in government appointments, which would seek out qualified candidates and remove unnecessary barriers to the recruitment, appointment and promotion of women in public life.

(iii) research studies

- regular examination of appointment trends by each jurisdiction to indicate whether the appointment of men continues to predominate despite the presence of qualified female candidates.

Article 7(c)

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure, on equal terms with men, the right:

(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

1. Other International Documents

(a) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 59

Participation in political life implies participation as voters, lobbyists, elected representatives, trade unionists and public officials in the various branches of government, including the judiciary.

2. Commentary

Non-governmental organizations play an important role in the political and public life of a country, through their dialogue and consultation with governments in the policy-making process. However, not all traditional or established non-governmental organizations adequately represent the interests of women in this process.

3. Appropriate Measures for Implementation

(i) research studies

- careful scrutiny of the representation of non-governmental organizations with which governments consult, to ensure that from a diverse cultural, geographical and

socio-economic perspective the views of women are represented, and that the consultative process assures adequate consideration of issues which are of concern to women.

(ii) policy statements

- provision of funding and technical assistance to non-governmental organizations which focus primarily on issues of special concern to women.

V. International Representation

Article 8

States Parties shall take all appropriate measures to ensure to women on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 21.2

Everyone has the right of equal access to public service in his country.

(b) Convention on the Political Rights of Women: adopted by the General Assembly on 31 March 1953; in force on 7 July 1954; acceded to by Canada on 30 January 1957.

Article 3

Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.

(c) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 4(c)

All appropriate measures shall be taken to ensure to women on equal terms with men, without any discrimination: ...

> The right to hold public office and to exercise all public functions.

Such rights shall be guaranteed by legislation.

(d) World Plan of Action for the Implementation of Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 56

Women should have equal opportunity with men to represent their countries in all international forums where the above questions are discussed, and in particular at meetings of the organizations of the United Nations system, including the Security Council and all conferences on disarmament and international peace, and other regional bodies.

Paragraph 187

Women should be fully involved in policy-making at the international level as well as the national level. Governments should make sure that they are equitably represented among the principal delegates to all international bodies, conferences and committees, including those dealing with political and legal questions, economic and social development, disarmament, planning, administration and finance, science and technology, the environment and population. The secretariats of the international organizations should set an example by eliminating any provisions or practices in their employment policies that may be discriminatory against women. They should also take all necessary measures to ensure that an equitable balance between men and women staff members shall be achieved before the end of the Second United Nations Development Decade, and establish goals, strategies and time-tables to achieve this end. The equitable balance should apply to all substantive

areas, and to field posts where operational programmes are initiated and carried out.

(e) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 25(c)

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2, and without unreasonable restrictions:

To have access, on general terms of equality, to public service in his country.

(f) Programme of Action for the Second Half of the UN Decade for Women: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 73

Women should be equitably represented at all levels, especially the senior levels, in delegations to international bodies, conferences and committees dealing with political, economic and legal questions, disarmament and other similar issues. Governments should encourage and support increased employment of women at all levels, technical and professional, in the Secretariat of the United Nations and its subsidiary organs and specialized agencies.

Paragraph 238

Women at all levels, especially those from grass-roots organizations, should be encouraged to play a more effective role at the decision-making level in international organizations.

Paragraph 239

United Nations organizations and Member States are urged to take the necessary measures to increase the proportion of women by nominating and appointing women, particularly from developing countries, for posts in decision-making levels in secretariats and expert bodies. Member States are also urged to increase the

proportion of women on their delegations to all United Nations meetings, including meetings of preparatory committees for international conferences, and to prepare women to take an active role in such conferences. In this regard, Member States in co-operation with United Nations bodies should make arrangements for the inclusion of items on women's issues in the agenda of such conferences.

(g) Women in Public Life: UN Resolution 37/61: adopted by the General Assembly on 3 December 1982 without a vote.

Paragraph 2

Calls upon all Member States, by the end of the United Nations Decade for Women in 1985, to make special efforts to nominate and appoint women, on an equal basis with men and taking due account of the same professional criteria, to decision-making positions in those national and international bodies in which they are not equitably represented.

Paragraph 3

Calls upon the Secretary-General and the executive heads of the specialized agencies and other organizations of the United Nations system to make, by the end of the United Nations Decade for Women in 1985, increased efforts to select and appoint women, in accordance with Article 101 of the Charter of the United Nations, to decision-making positions in the Secretariat and in the organs and agencies of the United Nations system.

(h) Declaration on the Participation of Women in Promoting International Peace and Co-operation: adopted by the General Assembly on 3 December 1982 without a vote.

Article 5

Increase the level of women's participation in the sphere of international relations so that women can contribute, on an equal basis with men, to national and

international efforts to secure world peace and economic and social progress and to promote international co-operation.

Article 12

All appropriate measures shall be taken to provide practical opportunities for the effective participation of women in promoting international peace and co-operation, economic development and social progress including, to that end:

(a) The promotion of an equitable representation of women in governmental and non-governmental functions;
(b) The promotion of equality of opportunities for women to enter diplomatic service;
(c) The appointment or nomination of women, on an equal basis with men, as members of delegations to national, regional or international meetings;
(d) Support for increased employment of women at all levels in the secretariats of the United Nations and the specialized agencies, in conformity with Article 101 of the Charter of the United Nations.

2. Commentary

The object of this Article is to ensure women the opportunity to represent their country internationally and to participate in the work of international organizations on equal terms with men and without discrimination. To some extent, it is the international side of the obligations set out on the domestic side in Article 7. However, there is one potentially significant difference between Article 7 and Article 8, in that the latter requires States to take appropriate measures to ensure the opportunity for women to represent their government internationally on equal terms with men, whereas Article 7 requires that States ensure the right to vote and participate in public life on equal terms with men. Equality of opportunity may imply different methods of

implementation than does equality of participation. On the other hand, as indicated in the general discussion in Part A at pp. 31-33, in general it is assumed throughout the Convention that the equal rights it guarantees are to the same practical opportunities in a given area, rather than to numerical equality of participation.

Article 8 stipulates the undertaking of "all appropriate measures" in two equally important but distinctly different areas:

(i) representation of governments by women at the international level;

(ii) women's participation in the work of international organizations.

Both undertakings are to be made without any discrimination on the basis of ensuring women equal terms with men.

The undertakings can be seen to comprise a number of different activities:

- Representing the government at the international level can be either a job function of certain public servants, i.e., through employment in the career foreign service or as a technical expert of a federal or provincial government

engaged in international activities; or it can be the result of an appointment, as in the designation of heads of Canadian missions abroad.

- Participating in the work of international organizations can be achieved by being directly employed by an international organization; by being seconded (by one's government) to provide technical expertise to an international organization; or by being nominated (as an expert in one's own right) for election to an international expert body.

Membership in official government delegations is an important element achieved by being directly employed by an international organization; by being seconded (by one's government) to provide technical expertise to an international organization; or by being nominated (as an expert in one's own right) for election to an international expert body. Measures to enhance the role of women on delegations to international meetings would improve both equality of representation and participation.

3. Jurisdiction Among Governments in Canada

While responsibility for the conduct of international relations rests with the federal government, some provincial governments have established offices or delegations abroad, staffed with provincial officials.

In addition, provincial/territorial representation on Canadian delegations occurs frequently.

4. Appropriate Measures for Implementation

(i) statistical measures

- record annually the numbers of Canadian women and men so assigned and so employed;

- record and monitor the numbers of women and men named to official delegations and the levels at which they are appointed.

(ii) special temporary measures

- enhance the opportunity for women officers to be employed in the field of international relations in federal departments and provincial ministries engaged in international activities;

- ensure the opportunity for equitable representation by sex on all delegations and at all levels to international conferences and meetings;

- identify and consider qualified women for nomination to positions of high international profile;

- improve the opportunity for management skills training and development, as well as job diversification, for Canadian women involved in international assignments.

(iii) policy statements

- overcome systemic barriers inherent in selection and competition procedures to promote recruitment, selection and advancement of qualified women.

(iv) information measures

- publicize the number and types of opportunities available to women in this field.

VI. Article 9

Nationality

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 15

(1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

(b) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 5

Women shall have the same rights as men to acquire, change or retain their nationality. Marriage to an alien shall not automatically affect the nationality of the wife either by rendering her stateless or by forcing upon her the nationality of her husband.

(c) Convention on the Nationality of Married Women: adopted by the General Assembly on 20 February 1957; in force on 11 August 1958; in force for by Canada on 19 January 1960.

Article 1

Each contracting state agrees that neither the celebration nor the dissolution of a marriage between one of its nationals and an alien, nor the change of nationality by the husband during marriage, shall automatically affect the nationality of the wife.

Article 2

Each contracting state agrees that neither the voluntary acquisition of the nationality of another state nor the renunciation of its nationality by one of its nationals shall prevent the retention of its nationality by the wife of such national.

2. Commentary

Paragraph 1 of this Article states that women shall have equal control with men over those aspects of their nationality which pertain to acquisition, change or retention of that nationality. The provision also assures that marriage by a woman to an alien will have no effect on the nationality of the woman. Neither should any change of nationality by the husband during the course of the marriage automatically change the woman's nationality by rendering her stateless, or force the husband's nationality upon her. Any rights accruing to a man in respect of the degree of control he has over his nationality should accrue to a woman.

Paragraph 2 stipulates that men and women should have equal control over the granting of nationality to their children. The children of a male or female Canadian should therefore receive the same rights to obtain Canadian nationality.

3. Jurisdiction Among Governments in Canada

Citizenship and citizenship issues are exclusively the responsibility of the government of Canada.

4. Appropriate Measures for Implementation

(i) legislative measures

- appropriate amendments to citizenship legislation.

Education

VII. Article 10 (a) and (b)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training.

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(b) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 9

All appropriate measures shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels, and in particular:

(a) equal conditions of access to, and study in, educational institutions of all types, including universities and vocational, technical and professional schools;

(c) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 13

(1) The States Parties to the present Covenant recognize the right of everyone to education....
(2) The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
    (a) Primary education shall be compulsory and available free to all;
    (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
    (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education....

(d) Programme of Action for the Secord Half of the United Nations Decade for Women: Equality, Development and Peace: adopted 1980 by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 165

To provide equal access to educational and training opportunities at all levels of all types for girls and women in all sectors of society, thus enabling them fully to develop their personalities and to participate on an equal footing with men in furthering the socio-economic aims of national planning and to achieve self-reliance, family well-being and improve the quality of life.

2. Commentary

The principle of providing equal access to boys and girls to public education, training and vocational guidance would appear to be well entrenched in Canada. However, this may not be sufficient to address the special needs of women to redress existing social and economic imbalances. This article should not be interpreted to mean that the quality of educational resources must be the same in urban and rural areas. It is understood to refer to equal access of men and women to resources available in any particular area.

3. Jurisdiction Among Governments in Canada

In regard to the area of education, section 93 of the Constitution Act, 1867 provides that "in and for each Province the Legislature may exclusively make laws in relation to education," subject to certain qualifications in regard to denominational schools or separate or dissentient schools.

The Government of Canada also assumes some responsibilities in the area of education, notably with regard to the Indian people, in relation to whom it has jurisdiction by virtue of section 91(2) of the Constitution Act, 1867, which gives the Parliament of Canada exclusive authority to legislate in favour of Indians and lands reserved for Indians. The Government of Canada provides a significant contribution to the financing of education and specific occupational training within the provinces.

4. Appropriate Measures for Implementation

(i) education campaigns

- provision of vocational guidance which would encourage girls to consider and prepare for technical and other non-traditional skills, including counselling and special activities to promote development by girls, of all ages, of spatial and analytical skills.

(ii) research studies

- assessment of vocational guidance practices to ensure that the object of this article is respected.

Article 10 (c)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

Elimination of Stereotyping

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods.

1. Other International Documents

(a) Programme of Action for the Second Half of the United Nations Decade for Women: Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 166

To contribute to a change in attitudes by abolishing traditional stereotypes of men's and women's roles in stimulating the creation of new and more positive images of women's participation in the family, the labour market and in social and public life.

2. Commentary

This provision clearly provides that male and female stereotypes in educational material should be eliminated.

The words "encouraging coeducation and other types of education which will help to achieve this aim" are more problematic. The educational system in some jurisdictions is non-secular and is therefore often largely sex-segregated. This system is supported by those who see girls-only schools as encouraging academic excellence.

Finally, the call for elimination of stereotyping "at all levels and in all forms of education" may encompass the obligation to redress some of the imbalances between men and women working in educational institutions.

3. Appropriate Measures for Implementation

(i) education campaigns

- provision of role models from the community and the school.

(ii) special temporary measures

- rectification of the underrepresentation in academic and professional institutions at the teaching level, and as students in non-traditional fields of study at technical and community colleges, and universities at graduate and undergraduate levels.

(iii) research studies

- assessment of programs, materials and curricula to identify and eliminate sex stereotyping.

Article 10 (d)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

Scholarships

(d) The same opportunities to benefit from scholarships and other study grants.

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 9

All appropriate measures shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels, and in particular:

(c) Equal opportunities to benefit from scholarships and other study grants....

2. Commentary

The "opportunity to benefit" from financial assistance may not be provided on an equal basis if more scholarships and grants are made available by private sources to students in male-dominated areas of study. This raises issues of systemic discrimination and also of the definition of what is a "private matter" excluded

from the Convention. Furthermore, this article may require legislative provisions to ensure equal opportunities to benefit from grants.

3. Appropriate Measures for Implementation

(i) special temporary measures

- encourage universities and other grant-giving bodies to solicit private funds and to administer bursaries and scholarship funds in ways that allow for equitable distribution to female students and to female-dominated areas of study.

(ii) research studies

- examine the need for positive measures to supplement funds available for female students and female-dominated areas of study, as compared to male-dominated areas of study.
- review human rights legislation to ensure adequate measures against systemic discrimination and against specific gender-based restrictions on the awarding of scholarships and grants.

Article 10 (e)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

Continuing Education

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women.

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 9(d)

All appropriate measures shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels, and in particular:

(d) Equal opportunities for access to programmes of continuing education, including adult literacy programmes....

(b) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 13(2)(d)

States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education.

(d) Programme of Action for the Second Half of the United Nations Decade for Women Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 165

To provide equal access to educational and training opportunities at all levels of all types for girls and women in all sectors of society, thus enabling them fully to develop their personalities and to participate on an equal footing with men in furthering the socio-economic aims of national planning and to achieve self-reliance, family well-being and improve the quality of life.

2. Commentary

The importance of continuing education to redress the economic imbalance between men and women has been well documented. It is particularly critical, given the impact of new technologies on areas of traditionally high female employment. Immigrant women, isolated and dependent, and one of the most disadvantaged groups in Canada, have a particular need for adult education programmes which reach out in a way sensitive to their culture and accommodate the double burden of home and paid work.

3. Appropriate Measures for Implementation

(i) education campaigns

- provision of courses conducted in the workplace, at flexible times and which provide child care during class time which address specific needs such as functional literacy, teaching of an official language, academic and technical upgrading and retraining and life and adaptation skills.

- providing incentives and assistance to young women and single mothers who wish to upgrade their skills and reduce their economic dependence on social welfare programs.

Article 10 (f)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

Drop-outs

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely.

1. Other International Documents

(a) International Covenant on Economic, Social and Cultural Rights: Adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 13(2)(d)

The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not yet received or completed the whole period of their primary education.

2. Commentary

While the drop-out rate is lower for young women than young men, the special needs of young pregnant students and mothers to prevent early school leaving should be addressed.

3. Appropriate Measures for Implementation

(i) education campaigns

- provision of day care services at school and other support services for young mothers.
- provision of family life course.
- intensified counselling services to encourage young drop-outs to return to schools.

Article 10 (g)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

Physical Education

(g) The same opportunities to participate actively in sports and physical education.

1. Commentary

The unequal participation rate of girls and resource allocation in educational institutions to sports and physical education for

girls has been well documented. Resource allocation for opportunities to participate and assume leadership roles in organized sports is limited or restricted to young women. The right to coed sports competitions varies by province.

Currently, the issue of the provision of "separate but equal" services and facilities versus integrated opportunities needs resolution. This will depend largely on the definition of "discrimination" under the Convention, and in particular whether differentiations are reasonable. One relevant factor might be the skill level of participants in relation to the type of activity in which they are engaged.

2. Appropriate Measures for Implementation

(i) legislative measures

- clear legislative direction on this issue, and effective implementation of any legislative and constitutional measures in this area.

(ii) education campaigns

- measures to combat the stereotyping of female athletes, coaches and administrators, including the provision of role models to girls and women and affirmative action programs where appropriate in non-profit and government-supported sports organizations as well as educational institutions.

(iii) special temporary measures

- active promotion and encouragement to increase opportunities and the participation of girls and women in sport and fitness activities.

- affirmative action programs in such fields as coaching.

Article 10 (h)

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

Family Education

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 9(e)

Access to educational information to help in ensuring the health and well-being of families.

2. Commentary

This article addresses the need to provide accessible family life and family planning education. Family life education for both sexes should be seen as not just clinical and factual lessons, but as a broader social issue which could contribute to and promote the equality of women as well as strengthen family life, human values and relationships.

Boys and girls would benefit from information on the equality of family responsibilities.

4. Appropriate Measures for Implementation

(i) education

- information campaigns and programs on family planning, family life and health, with particular attention to linguistic, cultural, geographical and economic barriers to access to such information in educational institutions and through other means of delivery.

- access to appropriate training for the professionals responsible for family life and family planning education.

VIII. Article 11

Article 11 requires governments to take all appropriate measures to equalize opportunities for and treatment of women in employment. It specifies the elimination of discrimination in two areas; the terms and conditions of and for employment; and the prevention of discrimination on the grounds of marital status and maternity. It also calls for periodic reviews of protective legislation.

Article 11.1

Employment

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights....

1. Other International Documents

(a) ILO Convention No. 111: Convention Concerning Discrimination in Respect of Employment and Occupation: adopted on 25 June 1958; in force on 15 June 1960; acceded to by Canada on 26 November 1965.

Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice--

(a) to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;

(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;

(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;

(d) to pursue the policy in respect of employment under the direct control of a national authority;

(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;

(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

(b) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 90

Governments should formulate policies and action programmes expressly directed towards equality of opportunity and treatment for women workers and the guarantee of their right to equal pay for equal work. Such policies and programmes should be in conformity with the standards elaborated by the United Nations and

the International Labour Organization. They should include legislation stipulating the principle of non-discrimination on the grounds of sex or marital status, guidelines for implementing the principles, appeals, and effective targets and machinery for implementation.

Paragraph 98

Special efforts should also be made to increase the number of women in management and policy-making in commerce, industry and trade.

Paragraph 106

Governments should encourage and stimulate concerted efforts, in particular on the part of employers' and workers' organizations, to bring about a marked improvement in the position of women in employment and should co-operate with all voluntary organizations concerned with the status of women workers in economic life and in society as a whole.

Paragraph 107

Trade unions should adopt policies to increase the participation of women in their work at every level, including the higher echelons. They should have special programmes to promote equality of opportunity for jobs and training for women and leadership training for women. They should play a leading role in developing new and constructive approaches to problems faced by workers, paying special attention to the problems of women workers.

(c) Programme of Action for the Second Half of the United Nations Decade for Women: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 108

Labour policies and action taken in favour of women workers should form part of over-all employment policies and measures for the entire working population, men and women alike, with a view to overcoming the problems that affect women only and preventing measures of protection which discriminate

against them. Employment policies for underprivileged population groups, such as urban fringe groups, the low-income sector and indigenous population groups, should include references to the specific situation of women workers.

Paragraph 115

To take measures for the implementation of legislation relating to working women.

Paragraph 121

Special action should be taken to institute programmes which would inform women workers of their rights under legislation and other remedial measures. The importance of freedom of association and the protection of the right to organize should be emphasized, this being particularly relevant to the position of women in employment. Special measures should be taken to ratify and implement in national legislation the relevant conventions and recommendations of the International Labour Organization concerning the rights of women as regards access to equal employment opportunities, equal pay for work of equal value, working conditions, job security and maternity protection.

Paragraph 122

Information programming should be instituted aimed at making women, especially those in the rural areas and in socio-economically disadvantaged groups, aware of employment opportunities and of the opportunities for education, training and skill acquisition.

Paragraph 123

Measures should be taken to ensure that development agencies in different sectors of national planning include larger numbers of women in their staff as a matter of policy and, as part of that policy, allocate resources to programmes for women's employment and training, the provision of supporting services and other essential inputs.

Paragraph 128

Ways should be investigated in which the unpaid work in the household and in agricultural tasks which women and men perform can be recognized and reflected in official statistical data collections.

Paragraph 139

The number of women at the decision-making level in both national and international workers' organizations and advisory bodies should be increased at least until the proportion corresponds to the number of women carrying on an occupation.

Paragraph 140

Equal employment opportunity programmes should be developed to promote the access of women to all levels of management and decision-making positions and effective programmes should be devised that will promote the access of women and girls to non-traditional skilled trades.

2. Commentary

The text requires States Parties to take all appropriate measures to eliminate discrimination against women "in order to ensure, on a basis of equality of men and women, the same rights" in the field of employment. The phrase quoted is interpreted as meaning that "women must have the same practical opportunities as men" to realize their employment rights. Thus, it provides a stronger obligation than merely removing legal obstacles.

"All appropriate measures" also includes "special measures aimed at accelerating de facto equality" (see Article 4.1) as well as measures "to modify...conduct...with a view to achieving the elimination of prejudices...and...practices which are based on...stereotyped roles for men and women" (see Article 5(a)). The undertaking of information programs and non-discriminatory employment policies would also be appropriate.

In terms of removing legal obstacles, clearly formulated, feasible labour and human rights legislation covering all workers are a basic requirement for fulfilling obligations under Article 11.

3. Jurisdiction Among Governments in Canada

Responsibility for labour matters, anti-discrimination, human rights, health and safety, and employment standards legislation is divided between the federal and provincial jurisdictions, the responsibility for the majority of workers resting with the provinces. Federal jurisdiction extends to employment of federal public servants, as well as to specific areas of federal responsibility, as defined in the Canada Labour Code.

Legislation relating to all other labour matters is within provincial jurisdiction. (see also the discussion on jurisdiction under Article 11.1(e)).

4. Appropriate Measures for Implementation

(i) legislative measures

- enactment of legislation prohibiting discrimination in employment on the grounds of sex, marital status or pregnancy, and the repeal of any inconsistent measures.
- adequate enforcement mechanisms.

(ii) statistical measures

- compilation and dissemination of data on women in the work place and their status.

(iii) special temporary measures

- the adoption of positive measures where appropriate to accelerate de facto equality between men and women workers;
- the adoption of measures to ensure that women benefit equally from job creation programs.

(iv) information campaigns

- dissemination of information concerning the legal rights and opportunities of women workers, training opportunities and mechanisms for redress.

Article 11.1(a)

Right to Work

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) the right to work as an inalienable right of all human beings....

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 23.1

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(b) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; inforce on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 6.1

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. Commentary

The "right to work" has consistently been interpreted (in relation to ILO Convention 122 and the International Covenant on Economic, Social and Cultural Rights) as being linked to full employment policies. Under this interpretation, it does not follow that governments must guarantee everyone a job or that everyone is obliged to work. Inasmuch as the wording refers to "all human beings" sub-article 11.1(a) is not sex-specific and will not, therefore, be considered in the context of this document.

3. Appropriate Measures for Implementation

(i) policy statements

- integration of the special concerns of women workers in the development of employment policies.
- the development and implementation of policies which promote full employment.

Article 11.1 (b)

Equality of Opportunity for Employment

States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure: on a basis of equality with men and women, the same rights, in particular: (b) the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment.

1. Other International Documents

(a) ILO Covention No. 111: Convention Concerning Discrimination in Respect of Employment and Occupation:

adopted on 25 June 1958; in force on 15 June 1960; entered into force for Canada on 26 November 1965

Article 1.3

For the purpose of this Convention the terms 'employment' and 'occupation' include access to vocational training, access to employment and to particular occupations, and terms and conditions of work.

(b) ILO Convention No. 122 concerning Employment Policy: adopted on 9 July 1964; in force on 15 July 1966; entered into force for Canada on 16 September 1967.

Article 1.2(c)

The [employment policy] shall aim at ensuring that -

(c) There is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endorsements in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 91

Special efforts should be made to foster positive attitudes towards the employment of women, irrespective of marital status, among employers and workers and among women and men in society at large, and to eliminate obstacles based on sex-typed divisions of labour.

Paragraph 97

Specific target dates should be established for achieving a substantial increase in a number of qualified women employed in skilled and technical work.

(d) Programme of Action for the Second Half of the United Nations Decade for Women: Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 117

To adopt measures for ensuring that women's entry into certain sectors of the labour market does not result in lowering the working conditions, remuneration and status of those sectors.

Paragraph 130

Where appropriate, flexible formal or informal training programmes should be designed and implemented for women in non-traditional areas in order to widen their employment opportunities and to enable them to generate income through the production of goods and services.

2. Commentary

In the ILO context, the accepted phraseology groups together the principles of "equality of opportunity" and "equality of treatment" as well as the categories "employment" and "occupation" (see Article 2 of ILO Convention 111 and the text of the ILO Declaration on Equality of Opportunity and Treatment for Women Workers). For the purposes of interpreting the text of Article 11 of the Women's Convention, it is more useful to distinguish between the principles and categories by discussing equality of opportunity in employment within the context of subarticle 11.1(b), and assigning analysis of "equality of treatment in employment and occupation" to subarticle 11.1(c). Thus it is useful to note the ILO's call to governments to ensure the "fullest possible opportunity for each worker to qualify for...a job for which he is well suited" and its extension of the meaning of employment to include "access to employment."

In the Canadian context, the right of women to "the same employment opportunities" as men can be broadly interpreted as a requirement to address the issue of systemic discrimination as

manifested in employment matters. This approach is further supported by those recommendations in other international documents which call for the elimination of obstacles based on the sex-typed division of labour, and for the implementation of training programmes in non-traditional areas in order to widen employment opportunities. The matters to be addressed should therefore include:

* labour force participation rates, both full-time and part-time, of women;
* industrial and occupational segregation of women; and
* women's unemployment rates.

More specifically, the phrase "application of the same criteria for selection" indicates that States Parties have an obligation to eliminate discrimination in hiring practices. Neither sex nor marital status may be used to distinguish between candidates for employment. Just as importantly, job-selection criteria which are covertly discriminatory, such as height/weight requirements, may not be utilized to select employees.

However, the phrase "application of the same criteria" would not prevent the consideration of bona fide occupational requirements being stipulated (see discussion under Article 1).

Equal employment opportunity may be denied if adequate child support services are unavailable (see Article 11.2(c) for further discussion).

3. Appropriate Measures for Implementation

(i) special temporary measures

- a program to ensure that women benefit equally from job creation measures;
- provision of support to women who want to enter non-traditional occupations;
- special measures to encourage women to undertake apprenticeships;
- measures to eliminate the discriminatory impact of job evaluation procedures and other forms of systemic discrimination.

Equality of Treatment in Employment

Article 11.1(c)

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(c) the right to free choice of profession and employment, the right to job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

(b) ILO Covention No. 111: Convention Concerning Discrimination in Respect of Employment and Occupation: adopted on 25 June 1958; in force on 15 June 1960; entered into force for Canada on 26 November 1965

Article 1.3

For the purpose of this Convention the terms 'employment' and 'occupation' include access to vocational training, access to employment and to particular occupations, and terms and conditions of work.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 99

Access to skills and the provision of institutional and on-the-job training should be open to women in the same way and on the same condition as to men so as to make them equally eligible for promotion.

(d) Programme of Action for the Second Half of the United Nations Decade for Women Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 111

To improve the working conditions and occupational mobility of women workers in the lower and middle levels of the sectors in which the majority of women work.

Paragraph 116

To formulate and implement national and local training and employment programmes and projects which take particular account of the need to give women access to gainful economic activity and to improve their employment situation in priority areas for the economic and social development of their countries.

Paragraph 124

Legislative and/or other measures should be adopted and implemented which guarantee women protection against any sexually-oriented practice that endangers a woman's access to or maintenance of employment, that undermines her job performance and thus threatens her economic livelihood.

Paragraph 131

The access of women to special technical training programmes should be increased and women so qualified should be helped to obtain jobs suited to their individual skills; legislative measures should be enacted and appropriate legal assistance provided to prevent exploitation based on sex, race, age, marital status or motherhood in both the traditional and modern sectors. In addition, measures should be taken to ensure that women are introduced, on the same footing as men, to new types of training in the advanced technologies which are now being widely developed.

Paragraph 133

Where necessary, measures should be taken to develop and/or accelerate much needed changes in policies in the tertiary sector, which includes the informal

subsectors of small-scale trading, domestic services and the like in both urban and rural areas, especially by (a) extending the coverage of labour legislation in particular for domestic services workers; (b) guaranteeing the right to organize co-operatives controlled by the women concerned; and (c) increasing access to managerial and technical training and to financial resources, credit facilities and other inputs in order to improve the working conditions of women and increase their occupational and educational mobility as well as their productivity and economic returns.

(f) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 7.c

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence....

2. Commentary

This provision does not distinguish between part-time and full-time workers. Therefore the provision of benefits to part-time workers, the great majority of whom are women, would be a matter for consideration. It would be necessary to justify any differences in the provision of benefits to part-time workers as a reasonable differentiation, as discussed in Part A. An economic rationale for differentiation based on sex may not necessarily mean it is reasonable.

While the text of subarticle 11.1(c) requires that women and men be equally treated in three particular matters (free choice of employment/profession; terms and conditions of employment; and

vocational training), the tenor of the subarticle can best be characterized as "equality of treatment in employment." Thus, generally speaking, 11.1(c) requires that women and men be treated equally in all respects after being hired for the job, such as promotion rates, benefits, access to training and participation in the apprenticeship system.

3. Appropriate Measures for Implementation

(i) legislative measures

- extension of anti-discrimination and labour standards legislation to domestics and agricultural workers;
- extension of anti-discrimination legislation to cover benefits standards as well as medical and disability insurance;
- extension of (pro-rated) benefits to part-time workers.

(ii) special temporary measures

- actions to reduce the effects of social stereotyping and increase the number of women participating at all levels in non-traditional training.

(iii) research studies

- studies aimed at establishing why women are not promoted at the same rate as men which could serve as the basis for further measures.

Article 11.1(d)

Equal Remuneration

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(d) the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.

1. Other International Documents

(a) ILO Convention No. 100: Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value: adopted on 29 June 1951; in force on 23 May 1953; acceded to by Canada on 16 November 1973.

Article 2.1

Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

Article 3

Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

(b) International Covenant or Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 7(a)(i)

States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

i. fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.

(c) Programme of Action for the Second Half of the United Nationa Decade for Women Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 109

...To ensure that women and men receive equal remuneration for work of equal value and equal educational and training opportunities in both rural and urban areas, so that women may obtain more highly skilled employment and become integrated into the development of their countries....

(d) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 88

This Plan seeks to achieve equality of opportunity and treatment for women workers and their integration in the labour force in accordance with the accepted international standards recognizing the right to work,

to equal pay for equal work, to equal conditions of work and to advancement.

Paragraph 90

Governments should formulate policies and action programmes expressly directed towards equality of opportunity and treatment for women workers and the guarantee of their right to equal pay for equal work...

2. Commentary

The deposit of Canada's ratification, without reservation, of the Convention was accompanied by the following statement:

> The Government of Canada states that the competent legislative authorities within Canada have addressed the concept of equal pay referred to in article 11.1(d) by legislation which requires the establishment of rates of remuneration without discrimination on the basis of sex. The competent legislative authorities within Canada will continue to implement the object and purpose of article 11.1(d) and to that end have developed, and where appropriate will continue to develop, additional legislative and other measures.

All States Parties agree to take appropriate measures, in a progressive manner, to implement the provisions of article 11.1(d). Appropriate legislative and other measures may vary according to each jurisdiction's existing legislation on equal pay in employment for women, since this issue is addressed through varying legislation and approaches in each jurisdiction.

This article covers equal remuneration (and any other non-wage benefits), and equal treatment, for work of equal value. It also requires that there be a fair evaluation of the quality of work.

Some current employment practices which may be called into question by the requirements of this article are the differences

in treatment of part-time workers and piece workers, and differences based on seniority.

3. Appropriate Measures for Implementation

(i) legislative measures

- where appropriate, legislative amendments.

(ii) administrative measures

- evaluation of the effectiveness of existing enforcement systems.

(iii) education campaigns

- education and other means of encouragement to ensure the removal of compensation inequities facing women in the work place.

(iv) research studies

- comprehensive review and research into recent interpretations and possible future policy changes followed by public consultations;
- a review of the differential treatment in the remuneration, non-wage benefits, and evaluation of women workers, including part-time workers, piece workers and domestic workers, and differences based on seniority.

Article 11.1(e)

Social Security

States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(e) the right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

(b) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 10.1(c)

All appropriate measures shall be taken to ensure to women, married or unmarried, equal rights with men in the field of economic and social life, and in particular:

(c) The right to leave with pay, retirement privileges and provision for security in respect of unemployment, sickness, old age or other incapacity to work....

2. Commentary

The unequal treatment of women with respect to social security benefits is generally the result of traditional employment practices which constitute systemic discrimination. Thus it may be necessary to re-evaluate such practices as the exclusion of domestic workers from eligibility for social insurance benefits, the exclusion of pregnancy and of particular medical conditions from insurance coverage, such as the need for breast prostheses, tubal ligations, hysterectomies, or abortions; the payment of lower wages in occupations dominated by women, with resulting lower contributions and benefits under earnings-related plans, insufficient survivor benefits requirements in pension benefits legislation, the exclusion of women who work in the home from social security benefits and sex-based mortality tables.

3. Jurisdiction

Under Canada's constitution, the primary responsibility for the provision of social security benefits rests with the provincial governments by virtue of their authority over "property and civil rights" and "generally all matters of a merely local or private nature in the province." Since Confederation, however, there have been three amendments to the constitution which granted jurisdictional authority to the federal government for social security matters, the first of which was unemployment insurance in 1940. Later, the federal government's legislative authority

was extended to the Canada Pension Plan with respect to nine provinces (1951) and "supplementary benefits, including survivors' and disability benefits" (1964), provided that the federal laws do not affect the operation of any provincial law.

4. Appropriate Measures for Implementation

(i) legislative measures

- amendment of appropriate legislation to require the opportunity for coverage of part-time workers in government-sponsored or employer-sponsored benefit plans;

- legislative reviews pursuant to s.15 of the Charter to ensure that social security schemes do not contain discriminatory elements.

Article 11.1(f)

Workplace Health & Safety

States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(f) the right to protection of health and safety in working conditions, including the safeguarding of the function of reproduction.

1. Other International Documents

(a) Programme of Action for the Second Half of the United Nations Decade for Women Equality, Development and Peace: adopted by the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 126

Measures should be taken to ensure on a basis of equality of men and women the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. Special protection should be provided to women during pregnancy in types of work proved to be harmful to them.

2. Commentary

This article refers to the obligation of States Parties to enforce and monitor health and safety regulations which govern the workplace. Particular attention should be paid to occupational and environmental factors which may affect the reproductive function. Recent issues include the quality of air in sealed buildings and the effects of visual display units, chemicals and radioactive particles. Enforcement may not occur so as to affect women's right to work.

3. Appropriate Measures for Implementation

(i) information campaigns

- dissemination of information relating to possible hazards in the workplace;

- strategies for preventing and control of occupational disease in women, paying particular attention, among others, to: sectors and occupations where women are concentrated; pregnancy and lactation; harmonization of work and family responsibilities; appropriate protective equipment and clothing; and new technologies.

(ii) legislative measures

- legislation to ensure that women are not unreasonably excluded from employment on grounds of protection.

IX. Article 11.2

Marriage or Maternity

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) to prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status....

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 10.2

In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services, including child-care facilities.

(b) Programme of Action for the Second Half of the United Nations Decade for Women Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly or Resolution 35/136 on 11 December 1980 by a vote of 132-2-9 (Canada voting against).

Paragraph 113

To promote effective policies for increasing employment opportunities, to improve existing ones and enable women to obtain jobs involving more skills and responsibility...by encouraging the provision of maternity protection...with a view to achieving the industrialization targets for the third United Nations Development Decade.

Paragraph 125

Legislative and/or other measures should be adopted and implemented to secure for men and women the same right to work and to unemployment benefits, as well as to prohibit, through inter alia the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status. Legislative and other measures should be adopted and implemented to facilitate the return to the labour market of women who have left it for family reasons and to guarantee the right of women to return to work after maternity leave.

2. Commentary

The object of this article is again to recognize the benefits to society which flow from child-bearing, and to ensure that women do not bear a disproportionate economic burden (see also Articles 4.2 and 5). It should be noted that this section contains very strong directive language and is one of only two provisions of the Convention which refer to sanctions. "Maternity leave" may also include adoption leave.

3. Appropriate Measures for Implementation

(i) legislative measures

- adoption of legislative measures requiring the employer to establish grounds unrelated to pregnancy, or to a resultant temporary absence from the workplace, in the case of the dismissal of a pregnant woman, a woman on maternity leave or a woman recently returned from maternity leave.

Article 11.2(b)

Maternity Leave

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority, or social allowances....

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 10.2

In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services, including child-care facilities.

(b) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 10.2

The States Parties to the present Covenant recognize that:

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted by the General Assembly in December 1975.

Paragraph 100

Governments, employers and trade unions should ensure to all women workers the right to maternity protection, including maternity leave with a guarantee of returning to their former employment, and to nursing breaks, in keeping with the principles laid down in the International Labour Organization Convention Maternity Publication and Recommendation, 1952. Provisions relating to maternity protection should not be regarded as unequal treatment of the sexes.

2. Commentary

Paragraph (b) requires both the granting of maternity leave and the payment of economic benefits during such leave. There is no direction as to the length of leave required, and the phrase "with pay or with comparable social benefits" indicates that economic benefits may take the form of continued salary or some other form of state-sponsored economic benefit such as unemployment insurance benefits. However, it would also appear to indicate that in the latter case there must be substantial equivalence. In either case, the source could be either the state or the employer. "Maternity leave" may also require the introduction of adoption leave.

3. Jurisdiction

Federal and provincial jurisdictions have responsibility for the enactment and enforcement of maternity leave provisions. The federal Unemployment Insurance Commission pays benefits to all eligible workers whose earnings are interrupted by pregnancy. Jurisdiction over occupation health is discussed under Article 11.1.

4. Appropriate Measures for Implementation

(i) legislative measures

- introduction of maternity leave with pay or with substantially equivalent social benefits (this may also be accomplished through non-statutory means such as collective agreements), that ensures maintenance of employment status during leave and return to the same or a similar job upon completion of leave.

Article 11.2(c)

Supporting Social Services

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(c) to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life in particular through promoting the establishment and development of a network of child-care facilities....

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 10.2

In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services, including child-care facilities.

(b) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 101

Special attention should be given to the need for multilateral approaches to facilitate the combination of family and work responsibilities. These could include: a general reduction and/or staggering of working hours; flexible working hours; part-time work for women and men; child-care facilities and child-care leave systems to assist parents to take care of their children; communal kitchens; and various kinds of facilities to help them discharge household tasks more easily. Governments and trade unions should ensure that the economic and social rights of part-time workers are fully protected.

2. Commentary

Paragraph (c) requires States Parties to promote the establishment and development of child-care facilities so that parents are able to combine family obligations with work responsibilities. This requirement also reflects the concern of the Convention with the welfare of children, as indicated in Articles 11(2)(d) and 12(2) on special protection during pregnancy and Article 16(1)(d) on the paramount nature of the interests of children.

Paragraph (c) is not specific as to the nature of measures that States Parties must take to promote the establishment of child-care facilities. Presumably these facilities might be privately run or provided by employers or States Parties themselves.

Paragraph (c) also requires States Parties to encourage the provision of other necessary supporting social services to parents.

3. Jurisdiction

The standards, administration, financial arrangements and the extent and type of child-care service are matters within the jurisdiction of provincial governments. However, some services

for families in need are funded through the Canada Assistance Plan. The Income Tax Act also provides for a Child Care Expense Deduction.

4. Appropriate Measures for Implementation

(i) research studies

- research on related issues, including parental needs and preferences and the optimal form of child care as provided by non-parental figures.

(ii) funding services

- increased financial assistance to parents and child-care facilities.

(iii) legislative measures

- granting of paid leave for family responsibilities.

(iv) policy statements

- assistance for flexible work hours.

Article 11.2(d)

Protection of Pregnant Workers

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(d) to provide special protection to women during pregnancy in types of work proved to be harmful to them.

1. Other International Documents

(a) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

> Article 10.2
>
> Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

2. Commentary

This article requires the provision of special protections in cases where the danger to pregnant women has been established, such as exposure to radiation and certain chemicals. This is in addition to the more general obligation required by Article 11.1(f).

However, any protective measures should not affect women's right to work and result in exlusionary hiring practices.

3. Appropriate Measures for Implementation

(i) legislative measures

- the right to protective reassignment of pregnant or lactating women workers;

- the provision of protection to pregnant women at the workplace in situations proved harmful to them.

(ii) information campaigns

- to inform pregnant women workers of the potential dangers to them in the workplace;

- to inform employers of potential dangers and techniques for protecting pregnant or lactating women workers.

(iii) research studies

- monitoring and identification of potential occupational hazards.

X. Article 11.3

Periodic Review

Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

1. Commentary

It should be noted that this article is drafted in mandatory terms. It is particularly relevant to occupational health issues.

2. Appropriate Measures for Implementation

(i) legislative measures

- establishment of an independent, on-going body charged with the responsibility and the obligation to report its findings publicly.

(ii) research studies

- funding and encouragement of research in areas of specific relevance to employment.

XI. Article 12

Article 12(1)

Health Rights

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

1. Other International Documents

(a) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 110

Improved access to health, nutrition and other social services is essential to the full participation of women in development activities, to the strengthening of family life and to a general improvement in the quality of life. To be fully effective, these services should be integrated into over-all development programmes with priority being given to rural areas.

Paragraph 113

Within the context of general health services, Governments should pay particular attention to women's special health needs by provision of pre-natal and post-natal and delivery services; gynecological and family planning services during the reproductive years; comprehensive and continuous health services directed to all infants, pre-school children and school children, without prejudice on grounds of sex; specific care for pre-adolescent girls and for the post-reproductive years and old age; and research into the special health problems of women. Basic health services should be reinforced by the use of qualified medical and paramedical personnel.

(b) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 3

The States Parties to the present Covenant undertake to ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 12

1. The States Parties to the present Covenant recognize the right of the everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

   (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

   (b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

(c) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

2. Commentary

Article 12 requires States Parties to eliminate discrimination in the field of health care and ensure equality of access to health care services. Since the meaning attached to the term "discrimination" within the Convention has been interpreted to extend to systemic discrimination, policies established by health care legislation must allow for equal benefits as well as equal

access. If, for example, the cost of artificial limbs for accident victims is recoverable from publicly funded insurance, the cost of mammary prosthesis should also be refundable.

Women do have special health needs particularly, in relation to pregnancy, childbirth and lactation. In other areas such as drug and alcohol dependency, the nature and extent of services available to women has been criticized.

Policy issues, such as the classification of certain prostheses as cosmetic, should be evaluated under the doctrine of reasonable differentiations. Further support for the position that Article 12.1 requires the substantive review of health care policy can be drawn from the general requirement that States Parties "condemn discrimination against women in all its forms" (Article 2), and the sanction of States pursuing special measures to achieve de facto equality until "the objectives of equal opportunity and treatment have been achieved."

3. Jurisdiction Among Governments in Canada

The primary constitutional prerogative on the delivery of health services in Canada rests with the Provinces, though the national health insurance scheme (Medicare) was created through federal statute.

4. Appropriate Measures for Implementation

(i) education campaigns

- sensitization to the special needs of women in the training of health services professionals;
- improved training and utilization of home care and community health workers, counselling services, and preventive care;
- provision of adequate health care and human sexuality education including family planning.

(ii) provision of services

- increased services related to domestic violence;
- increased services to meet the special needs of certain groups such as native, disabled and immigrant women;
- improved mental health services and treatment of substance abuse;
- provision of counselling and family planning services for women.

(iii) research studies:

- increased medical research which addresses the particular needs of women, including family planning.

(iv) policy statements:

- increased participation of women at the decision-making levels in health policy formulation and implementation.

Article 12(2)

Notwithstanding the provisions of paragraph 1 above States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

1. Other International Documents

(a) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 10(2)

The States Parties to the present Covenant recognize that:

(2) Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

(b) Programme of Action for the Second Half of the United Nations Decade for Women: Equality, Development and Peace: adopted at the 1975 conference by a vote of 94-2-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph 145

Ensure accessibility for all women to maternal health care (including care during pregnancy and childbirth and post-natal care), nutrition (including measures to control nutritional anaemias), family planning, prevention and treatment of infectious diseases - including sexually transmitted and non-communicable diseases - and parasitic diseases, through the establishment of a comprehensive family health, nutrition and health education network, in order to give women better access to health care.

Paragraph 152

Give high priority to the formulation and implementation of food and nutrition policies based on the needs of women, particularly pregnant and lactating women, and those of women and children of lower socio-economic status in both rural and depressed urban areas.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year:

Paragraph 113

Within the context of general health services, Governments should pay particular attention to women's special health needs by provision of pre-natal and post-natal and delivery services; gynecological and family planning services during the reproductive years....

2. Commentary

Article 12.2 contains an additional obligation to "ensure" appropriate services in connection with pregnancy, childbirth and lactation, at no cost "where necessary." The obligation to ensure equal access to health care services may extend, for example, to allow the provisions to midwives (currently not licensed in Canada) in appropriate circumstances.

3. Jurisdiction Among Governments in Canada

The primary constitutional prerogative on the delivery of health services in Canada rests with the provinces.

4. Appropriate Measures for Implementation

(i) legislative/administrative measures

- establishment of health clinics and information courses for expectant parents;

- monitoring of individuals requiring special health care;

- provision of nutritional supplements and counselling during pregnancy and lactation;

- establishment of paid maternity leave and home care for new mothers and infants;

- implementation of the above measures with particular attention to women of lower socio-economic status in both urban and rural areas.

(ii) research studies

- research addressing the health care needs of women in relation to pregnancy, childbirth, lactation and family planning.

XII Article 13

Economic and Social

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights....

The object of this article is to ensure that women achieve equal opportunity to develop and participate in the economic and social life of a society.

In light of the discussion on state obligations, provided in Part A, it would appear that Article 13 requires positive measures by States Parties.

It should be noted that Article 13 is not restrictive. States Parties have obligations "in other areas of economic and social life ... in particular," but not limited to, family benefits, financial credit, sport, recreation and cultural activities.

Article 13(a)

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits....

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 10(1)(d)

1. All appropriate measures shall be taken to ensure to women, married or unmarried, equal rights with men in the field of economic and social life, and in particular:

   (d) The right to receive family allowances on equal terms with men.

(b) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 9

The States Parties to the present covenant recognize the rights of everyone to social security, including social insurance.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 134

Social security programmes should, to the maximum extent, include children and family allowances in order to strengthen the economic stability of family members. Cross-cultural studies might be undertaken of the influence upon the condition of women in the family

and in society of family and children's allowances and benefits, motherhood awards and similar measures.

2. Commentary

"Family benefits" could include family allowances, housing subsidies, child care, financial or tax credits and other forms of financial support or privileges granted to families by all levels of government, wholly or partially on the basis of family status.

Systemic discrimination in relation to family benefits may exist where, for example, the benefit falls to the higher-income parent (usually the husband or father), or where tax deductions are permitted for certain employment expenses but not for others such as some child care expenses. Provisions which deny benefits to single mothers who live with or are involved in a relationship with a man have also been challenged as discriminatory.

3. Jurisdiction Among Governments in Canada

Social assistance is primarily the responsibility of the provinces in Canada. The federal government also contributes by virtue of its spending powers. In addition, the Government of Canada provides universal family allowance and various income tax credits and deductions for families.

4. Appropriate Measures for Implementation

(i) legislative provisions

- abolition of provisions denying benefits to single mothers who are involved in a relationship or living with a man as husband and wife.

(ii) research studies

- research on the accuracy of taxation and family benefits on women and on the intended recipients.

Article 13(b)

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(b) The right to bank loans, mortgages and other forms of financial credit....

1. Commentary

Discrimination against women in this area may take the form of requiring co-signing of spouses for collateral loans, denying access to credit for women by virtue of merging a wife's credit rating with that of her husband, and the application by officials

in financial institutions of different standards of credit to men and women of equal background and experience.

2. Jurisdiction Among Governments in Canada

Jurisdiction over the extension of credit is divided between the federal and provincial jurisdictions. National banks are chartered by Parliament, while the regulation of other credit-granting agencies is within provincial jurisdiction.

3. Appropriate Measures for Implementation

(i) legislative measures

- measures to ensure equality in seeking financial credit;
- appropriate mechanisms for monitoring and for the receipt of complaints.

(ii) education campaigns

- encouragement to major institutions to examine their polices and initiate discussions on sexual stereotypes;
- encouragement to financial institutions to develop specific guidelines to ensure equal access to financial credit without discrimination on the basis of sex.

Article 13(c)

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

1. Other International Documents

(a) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right to men and women to the enjoyment of all economic, social and cultural rights set forth in the present covenant.

Article 15 (1)

The States Parties to the present Covenant recognize the right of everyone:
(a) to take part in cultural life.

2. Commentary

Women's participation in sport can be divided into three categories: administrative roles, coaching positions, and

competition. Ensuring equal rights in each of the enumerated categories would require removing legal and systemic obstacles which effectively reduce the availability of sport and recreational programs for women. The question of when females are entitled to participate in publicly funded male team sports can only be answered by considering whether different treatment of males and females in this area of life constitutes a reasonable differentiation between them.

Issues include the composition of juries, the distribution of grants, and the funding of sport and recreation programs for women and girls.

3. Jurisdiction Among Governments in Canada

All levels of government have jurisdiction to conduct and support programs and activities in the recreational, sports and cultural fields.

4. Appropriate Measures for Implementation

(i) legislative measures

- amendment of measures exempting sport from the application of anti-discriminatory legislation.

(ii) information campaigns

- active promotion to improve public acceptance of the participation of women in sport and fitness activities and the role of such activities in the daily lives of women;

- sensitization of relevant organizations to the portrayal of women and to sex-role stereotyping.

(iii) administrative measures

- allocating additional funds to establish and maintain sport and recreation programs ensuring that women have equal access to such programs available to men, where there exists sufficient interest to support such programs;

- promotion of equal opportunities, financial support and professional recognition for women artists and the value of their contribution as members of boards, juries and organizations receiving and granting aid, in cultural publications and educational institutions;

- greater active participation of women at all levels of policy and decision-making within cultural and media organizations, funding and regulatory bodies.

(iv) <u>policy statements</u>

- development of non-discriminatory funding guidelines for granting agencies;
- establishment of guidelines to ensure that equal funds are expended to support the promotion of women's athletic programs, coaching certification programs and sports administration training programs and to stimulate participation by women.
- provision for women participants in all sports to receive funding equal to that of their male counterparts.

XIII Article 14

Rights of Rural Women

(1) States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

1. Commentary

This article appears to require that the special role and needs of rural women be considered in developing appropriate measures under each article of the Convention. The requirement that States "shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas" appears to place an onus on States Parties to make additional efforts to respond to the needs of rural women in particular. Some specific areas for consideration are listed in Article 14.2, and can be cross-referenced to other Articles of the Convention.

The particular matters to be addressed in the Canadian context should therefore include:

- the media portrayal of farm and non-farm rural women, particularly as it affects public knowledge of their role and contribution to society (Article 5: Stereotyping);
- the representation of rural women on public advisory boards and commissions and in non-governmental organizations involved in rural development (Article 7: Public Life);

- the additional costs of transportation to urban centres, and the resulting impact on family life, job, educational and training opportunities, health services, and participation in public life and non-governmental organizations (Article 11: Employment; Article 10: Education; Article 12: Health; Article 7: Public Life);

- the important contribution of rural women to agricultural production and volunteer community services, in addition to domestic and child care responsibilities; and which of these should be recognized for purposes of calculating the gross national product, labour force data, employment benefits or deduction of expenses for tax purposes (Article 5: Family Education; Article 7: Public Life; Article 11: Employment);

- difficulties, due to distance, in obtaining information on family planning (Article 12: Health Care, and Article 16: Family Relations);

- child care facilities which do not meet the demands or needs of rural women (Article 11.2: Maternity);

- the low number of short-term, regionally-based agricultural or job training courses, which cause less disruption in family life (Article 10: Education);

- distances from mental health services, alcohol abuse treatment centres and shelters for battered women;

- difficulties in obtaining credit or recognition from farm credit institutions due to stereotypical view on the role and contribution of farm women (Article 5: Stereotyping; Article 13: Financial Credit); and

- discrepancies or inequities in family property and inheritance legislation which do not treat the family farm as an asset to be shared equally between husband and wife (Article 16: Family Relations).

2. Jurisdiction Among Governments in Canada

Responsibility for rural women is shared by all levels of government in Canada, according to the specific heads of jurisdiction contained in the Constitution Act, 1867-1984. Reference should be made to the jurisdictional discussions under specific articles of this convention, such as Article 10 on Education and Article 12 on Health Care.

3. Appropriate Measures for Implementation

(i) statistical measures

- review of national surveys in order to identify the

participation of rural farm and non-farm women in the economy and labour force.

(ii) legislative measures

- legislative recognition of the family farm as a shareable asset on an equal basis between husband and wife.

(iii) administrative measures

- measures to improve child care facilities for all rural women;

- improved access to safe houses, telephone crisis lines and transition homes for battered women;

- training courses offered on a travelling, regional basis;

- improved mental health services, such as travelling mental health counsellors and practitioners, and/or telephone crisis lines.

(iv) policy/special temporary measures

- provision of refunds or tax deductions for travel to urban centres for educational, training or health purposes;

- increased appointment of qualified rural women to government advisory boards and commissions;

- increased participation of women in rural development;

- an increased number of short-term agricultural and occupational training courses which reduce the impact of absences from the home;

- financial assistance to encourage and facilitate the employment of farm labour;

- provision of adequate living conditions in rural areas, particularly in native communities.

(v) education campaigns

- improved portrayals of rural women in government communications and media coverage;

- education campaigns on the impact of stereotyping and the role of farm women, addressed to farm credit institutions.

Article 14(2)

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) to participate in the elaboration and implementation of development planning at all levels;
(b) to have access to adequate health care facilities, including information, counselling and services in family planning;
(c) to benefit directly from social security programmes;
(d) to obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as the benefit of all community and extension services, inter alia, in order to increase their technical proficiency;
(e) to organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
(f) to participate in all community activities;
(g) to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
(h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

1. Commentary

The issues addressed here are elaborated upon under the following articles:

Article 5: Stereotyped roles and family education

Article 7(c): Participation in non-governmental organizations

Article 10: Education

Article 11.1: Social security

Article 11.2: Family support services

Article 13(b): Financial credit

Possible issues in Canada under Article 14.2 at the present time may arise in relation to sex discrimination in homestead rights

and the special needs of native women, since most native women live in isolated rural areas.

The key to ensuring the equal participation of rural women probably lies in the application of Article 14.2(a): "equal participation of women in the elaboration and implementation of development planning" (emphasis added), which can then specifically address the other obligations of Article 14.

2. Appropriate Measures for Implementation

(i) education campaigns

- examine the educational opportunities available to rural women, and, following appropriate consultations, develop programs, whether within educations institutions, ad hoc, or community based, to increase functional literacy and career development counselling. Specific programs designed to provide political education and training in community organization would allow rural women to take an active role in planning and development as outlined in Article 14.2(a).

(ii) special temporary measures

- respond to the urgent needs of native women in relation to the issues raised by Article 14.2(h).

(iii) research studies

- examine the availability of health care and counselling services available in rural areas and the appropriate nature of health services required, following proper consultation.

(iv) policy statements

- examine the rate of participation of rural women in development and where appropriate, determine how their underrepresentation may be corrected through the process of policy formation for rural development.

XIV Article 15

Legal Rights

(i) States Parties shall accord to women equality with men before the law.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any incitement to such discrimination.

(b) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Commentary

Equality "before the law" is interpreted as equality in the administration of the law in the courts and other tribunals. A detailed discussion is provided in Part A of this interpretation. Issues may include inequality of application of the law, for example, enforcing provisions on soliciting against female prostitutes but not against male clients.

3. Jurisdiction Among Governments in Canada

Equality before the law is guaranteed by the Canadian Charter of Rights and Freedoms.

Civil capacity is a matter of provincial jurisdiction. Both levels of government are responsible for the administration of justice and procedures before the courts under their respective jurisdictions. The right to enter, remain in and leave Canada is dealt with under federal citizenship and immigration legislation. Certain mobility rights are also guaranteed under the Charter of Rights and Freedoms. These rights are guaranteed equally to male and female persons by s.28 of the Charter. The designation of the domicile and residence of married women is usually a matter for provincial family law.

4. Appropriate Measures for Implementation

(i) legislative measures

- repeal of legislative provisions which do not provide for the equality of treatment in the enforcement and application of the law;
- review and modification of any discriminatory practices in the enforcement and application of the law.

Article 15(2)

States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 6(1)(a)

Without prejudice to the safeguarding of the unity and the harmony of the family, which remains the basic unit of any society, all appropriate measures, particularly legislative measures, shall be taken to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular:

(a) The right to acquire, administer, enjoy, dispose of and inherit property, including property acquired during marriage....

(b) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March, 1976; acceded to by Canada on 19 May 1976.

Article 14(1)

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (order public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice: but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Commentary

"Legal capacity of women" is understood to mean the competence or legal capability of women which enables them to perform all civil or juristic acts on the same basis as men. A more detailed discussion is provided in Part A of this interpretation.

Equal treatment "in all stages of procedure in courts and tribunals" may also include such issues as damage awards, sentencing practices for women and girls, in comparison to men and boys convicted of similar offences. Disparate impact should also be examined in relation to legal aid coverage and delays in legal proceedings, particularly in family law matters.

3. Appropriate Measures for Implementation

(i) Legislative Measures

- a detailed review and repeal of any laws which maintain the concept of the civil law or common law incapacity of women,

(ii) research studies

- adequate research regarding judicial practices that may have an impact differing from that on men on the access of women to legal rights, and on the effect of sex-role stereotyping when women are before the courts.

Article 15(3)

States Parties agree that all contract and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

1. Commentary

This provision may prevent any restriction of the legal capacity of women by means of a private agreement.

2. Appropriate Measures for Implementation

(i) legislative measures

- prohibiting private agreements which have the effect of restricting the legal capacity of women.

Article 15(4)

States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 13(1)

Everyone has the right to freedom of movement and residence within the border of each state.

(b) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 12(1)

Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Commentary

Any law which required a married woman to reside at the same place as her husband, or attributed his domicile to her, would be inconsistent with this article. However, the inclusion of the phrase "with regard to the law" would suggest that factors of a non-legal nature which militated against a woman choosing a residence other than her husband's would not come within the article's purview.

3. Appropriate Measures for Implementation

(i) legislative measures

- review and amendment of any legislation which automatically attributes to a married woman her husband's domicile.

XV. Article 16

Rights in Marriage and the Family

(1) States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure on a basis of equality of men and women:

(a) the same right to enter into marriage....

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 16(1)

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(b) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 6(2)(a)

All appropriate measures shall be taken to ensure the principle of equality of status to the husband and wife, and in particular:

(a) Women shall have the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent.

(c) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 23(2)

The right of men and women of marriageable age to marry and to found a family shall be recognized.

(d) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 128

Legislation relating to marriage should be in conformity with international standards. In particular, it should ensure that women and men shall have the same right to free choice of a spouse and to enter into marriage only with their free and full consent.

2. Commentary

The "right to enter into marriage" refers to such legal obstacles as civil capacity (see Article 15(2)) and age restrictions.

3. Jurisdiction Among Governments in Canada

Jurisdiction over family law, consent to marry, rights and responsibilities during marriage and separation, family name and property in Canada rests primarily at the provincial/territorial level of government. However, the federal Parliament has the constitutional right to pass laws relating to marriage, divorce and ancillary measures.

4. Appropriate Measures for Implementation

(i) legislative measures

- elimination of discrimination relating to the minimum age required of men and women before entering marriage.

Article 16(1)(b)

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure on a basis of equality of men and women:

(b) the same right freely to choose a spouse and to enter into marriage only with their free and full consent....

1. Other International Documents

(a) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 23(3)

No marriage shall be entered into without the free and full consent of the intending spouses.

(b) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 6(2)(a)

All appropriate measures shall be taken to ensure the principle of equality of status of the husband and wife, and in particular:

(a) Women shall have the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent.

(c) International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 10(1)

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family.... Marriage must be entered into with the free consent of the intending spouses.

(d) World Plan of Action for the Implementation of the Objectives of the international Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 128

Legislation relating to marriage should be in conformity with international standards. In particular it should ensure that women and men shall have the same right to free choice of a spouse and to enter into marriage only with their free and full consent. A minimum age for marriage should be fixed by law and be such as to provide a sufficient period of education for girls and boys, but particularly girls, to enable them to complete their education and develop their potentialities prior to marriage. Official registration of marriages should be made compulsory.

2. Commentary

The right to freely choose a spouse may be constrained by legislation which causes the loss of certain rights upon marriage, such as the loss of Indian status.

3. Appropriate Measures for Implementation

(i) legislative measures

- legal provisions which nullify a marriage entered into without free and full consent.

- elimination of provisions which have an adverse impact upon the choice of a spouse.

Article 16(1)(c)

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure on a basis of equality of men and women:

(c) the same rights and responsibilities during marriage and at its dissolution.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 16(1)

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(b) Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

Article 6(2)(b)

All appropriate measures shall be taken to ensure the principle of equality of status of the husband and wife, and in particular:

(b) Women shall have equal rights with men during marriage and at its dissolution. In all cases the interest of the children shall be paramount.

(c) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976.

Article 23(4)

States Parties to the present Covenant shall take appropriate step to ensure equality to rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

(d) World Plan of Action for the Implementation of the Objectives of the international Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 130

Legislative and other measures should be taken to ensure that men and women shall enjoy full legal capacity and the exercise thereof relating to their personal and property rights, including the right to acquire, administer, enjoy, dispose of and inherit property (including property acquired during marriage). Limitations, where such exist, should apply

to both partners alike. During marriage the principle of equal rights and responsibilities would mean that both partners should perform an active role in the home, taking into account the importance of combining home and work responsibilities, and share jointly decision-making on matters affecting the family and children. At the dissolution of marriage, this principle would imply that procedures and grounds of dissolution of marriage should be shared on an equitable basis; appropriate provisions should be made for the social security and pension coverage of the work contributed by the homemaker; and decisions relating to the custody of children should be taken in consideration of their best interests.

3. Commentary

This article deals with such issues as the obligation of support during marriage and at its dissolution, the division of property upon the dissolution of marriage and, in particular, the recognition of the contribution of a homemaker spouse.

Article 16(1)(d-f)

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(d) the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children. In all cases the interests of the children shall be paramount;

(e) the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation. In all cases the interest of the children shall be paramount....

1. Other International Documents

(c) International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; by Canada on 19 May 1976.

Article 23(4)

States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities not spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

(d) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 6(2)

All appropriate measure shall be taken to ensure the principle of equality of status of the husband and wife, and in particular:

(a) Women shall have the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent;

(b) Women shall have equal rights with men during marriage and at its dissolution. In all cases the interest of the children shall be paramount;

(c) Parents shall have equal rights and duties in matters relating to their children. In all cases the interest of the children shall be paramount.

(c) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 132

Programmes of education for personal relationships, marriage and family life, health, including psycho-sexual development, should be integrated into all school curricula at appropriate levels and into programmes for out-of-school education, to prepare young people of both sexes for responsible marriage and parenthood. These programmes should be based on the ideals of mutual respect and shared rights and responsibilities in the family and in society. Child-rearing practices within each society should be examined with a view to eliminating customs that encourage and perpetuate ideas about superiority or inferiority on the basis of sex.

2. Commentary

Article 16(1)(d) refers to the obligation of parents to support their children, as well as the responsibility for their care and upbringing. Since the interests of the children are paramount, this provision may also require provisions with respect to the quantum and enforcement of support orders. Paragraph (e) would require joint decision-making in relation to family planning, and

equality of access to family planning information. The rights of access to the "means to enable them to exercise these rights" may include the elimination of discrimination in the provision of abortion service. Paragraph (f) refers to equal legal capacity of either sex to adopt children or to be appointed trustee or guardian. It may also refer to the right of single women to adopt a child.

3. Appropriate Measures for Implementation

(i) education campaigns

- encouraging both parents to participate actively in the upbringing and education of their children, both before and after dissolution of any marriage between the parents.

(ii) legislative measures

- repeal of any legislation granting preference on the basis of sex in matters of guardianship, wardship, adoption, and consent to legal acts of children under the age of majority;
- ensuring the right to obtain an order for adequate child support, and the right to effectively enforce this order, with state assistance where necessary.

Article 16(1)(g)

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure on a basis of equality of men and women:

(g) the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation....

1. Commentary

Issues may include legislative and administrative impediments to exercising the right of a married woman to retain or return to her birth name or to give this name to her child. This provision also addresses discrimination on the basis of marital status in employment.

2. Appropriate Measures for Implementation

(i) legislative measures

- repeal of discriminatory provisions with respect to the choice of surname of wives and children;

- measures prohibiting discrimination in employment on the basis of marital status.

Article 16(1)(h)

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure on a basis of equality of men and women:

(h) the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

1. Other International Documents

(a) Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948 by a vote of 48-0-8 (Canada in favour).

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

(b) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 6(1)(a)

Without prejudice to the safeguarding of the unity and the harmony of the family, which remains the basic unit of any society, all appropriate measures, particularly legislative measures, shall be taken to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular:

(a) The right to acquire, administer, enjoy, dispose of and inherit property, including property acquired during marriage....

2. Commentary

This article may address restrictions on property rights found in matrimonial property legislation. It would appear to require that such restrictions apply equally to both spouses. It may also require some form of joint ownership between spouses, in relation to "all matters relating to marriage and family relations," including property.

4. Appropriate Measures for Implementation

(i) research studies

- review the impact of matrimonial property legislation on the rights of the spouses in respect to property.

(ii) legislative measures

- legislative amendments, where required, to ensure equitable allocation of family economic resources.

Article 16(2)

The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

1. Other International Documents

(a) Declaration on the Elimination of Discrimination Against Women: proclaimed by the General Assembly on 7 November 1967.

Article 6(3)

Child marriage and the betrothal of young girls before puberty shall be prohibited, and effective action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

(b) World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXX) on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph 128

Legislation relating to marriage should be in conformity with international standards. In particular it should ensure that women and men shall have the same right to free choice of a spouse and to enter into marriage only with their free and full consent. A minimum age for marriage should be fixed by law and be such as to provide a sufficient period of education for girls and boys, but particularly girls, to enable them to complete their education and develop their potentialities prior to marriage. Official registration of marriages should be made compulsory.

Paragraph 129

All institutions and practices which infringe these rights should be abolished, in particular, child marriage and the inheritance of widows.

2. Commentary

It should be noted that while a minimum age for marriage is required, no specific age is provided.

3. Appropriate Measures for Implementation

(i) legislative measures

- provisions to provide a minimum legal age for marriage.

PART C - INTERPRETATIVE STATEMENTS FROM THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

On January 22, 1985, Canada presented its initial Report on the implementation of the provisions of the Convention, to the Committee on the Elimination of Discrimination Against Women. (The composition, powers and mandate of the Committee are described in the Introduction to this interpretation.) Twenty-three experts are elected in their personal capacities, rather than as representatives of their government. A list of experts is provided at the end of this Part.

The opening presentation was followed by over 80 questions from the experts present. The majority of comments and questions were in the nature of requests for clarification or further information on measures taken to improve the status of women in Canada. Furthermore, the experts rarely referred to specific articles of the Convention. In fact, only two Committee experts specifically stated that in their view, some articles were not yet being implemented in Canada. (Ms. Biryukova: articles 2, 3, 10, 11, 12, 13, 15 and 16; Ms. Peytcheva: articles 9.2, 15.2, 16.1(c) and 16.1(h).). This was strongly refuted in the reply given by the Canadian delegation.

Nevertheless, the direction of the questions and comments are useful indicators of the Committee's concerns on the meaning of the provisions of the Convention, and its implementation in Canada. The specific issues discussed also help to identify the type of appropriate measures expected from Canada in the future.

Generally, Canada's report was commended for its '... frankness, clarity and commitment, which reflected the political will of Canada to implement the articles of the Convention in improving the status of women. It was observed to be a major task for such a vast country but remarkable efforts had been made and results could be seen'. However, it was noted that Canada 'still had much to do in order to eliminate not only legal but also de facto discrimination against women in its country'. (Report, Fourth session, General Assembly A/40/45, para. 39 and 55.) Canada's next report is due in January, 1987.

I. General Provisions

Comments made by Committee members in considering reports by States Parties clearly indicate their concern with the eradication of systemic or de facto discrimination and the full enjoyment and exercise by women of their rights. This is shown by their interest in statistics on labour force participation, educational breakdown, representation of women in elected and appointed positions, and the wages and benefits of domestic and part-time workers, to name but a few examples.

While the Committee members support special measures which recognize certain differences based on sex, such as maternity leave, concerns are frequently expressed that such differentiations are not to be based on unfounded assumptions or stereotypes about the roles and capabilities of women. Legislation dealing with reproductive hazards, for example, should not be a disguise for limiting employment opportunities for women.

II. Consideration of Canada's Report

Article 5: Stereotyping

It was noted (Ms Evatt, Ms Gonzalez, Ms Macedo de Sheppard) that a great deal remained to be done in Canada to change traditional attitudes and stereotypes about the roles of men and women and the superiority of one sex over the other. Interest was expressed in measures to combat sexual harassment.

Some experts (Ms Wadstein, Ms Smith) raised the issue of measures directly aimed only at women, which may not be sufficient to ensure their development and advancement. In their view, it may also be necessary to direct some measures towards men, such as parental leave or shorter working hours, to encourage a greater role by fathers in parenting.

Article 6: Prostitution

Ms Macedo de Sheppard noted that although the information provided in connection with Article 6 conformed to the requirements of the Convention, she wished to know about Canadian laws applying to prostitutes themselves.

Article 7: Political Rights, and
Article 8: International Representation

Ms Cortes inquired about the reasons for the voting restrictions placed on judges.

The delegation was closely questioned on the reasons for the low level of representation of Canadian women in the legislatures, public bodies, the judiciary and management positions, and efforts to change this situation. Ms Peytcheva, Ms Cortes, Ms Regent-Lechowicz, Ms Macedo de Sheppard, Ms Biryukova, Ms Ider, Ms Rego da Costa Salema).

It would appear that progress in this area will be expected in Canada's next periodic report.

Article 10: Education

There seemed to be some uncertainty about compliance with the education provisions. While the high post-secondary enrolment of Canadian women was noted, several experts requested more quantitative data on: the reasons for the educational choices of women, vocational guidance for girls on non-traditional fields, the drop-out rate for girls, and the availability of scholarships and grants. (Ms Evatt, Ms Mukayiranga, Ms Peytcheva, Ms Regent-Lechowicz.)

Article 11: Employment

Several experts spoke in favour of such temporary special measures as mandatory affirmative action and government contract compliance programs to eliminate discrimination and increase the representation of women in male-dominated occupational groups. It was specifically asked whether any incentives were provided to employers to develop affirmative action programs. (Ms Macedo de Sheppard, Ms Wadstein, Ms Smith.)

Ms Wadstein and Ms Ider were also concerned by the apparent penalization of women part-time workers with regard to benefits and job security.

With respect to the right to work, experts from Eastern-block countries were concerned with the rate of unionization of women, and the high unemployment of women as an obstacle to efforts to eliminate job segregation. (Ms Peytcheva, Ms Regent-Lechowicz, Ms Biryukova.)

With respect to remuneration, Ms Wadstein, Ms Peytcheva and Ms Laiou-Antoniou noted that occupations dominated by women were generally lower paid, and that there were differences in remuneration between men and women. A question was asked about sanctions against employers who violated laws on equal remuneration. In Ms Biryukona's view, the data indicated that Canada was not in compliance with Article 11(1)(d) of the Convention. Ms Wadstein asked if 'comparable worth' was an issue in Canada, and if men were being encouraged to take so-called women's jobs.

Ms Ider asked whether most pregnant women were eligible for and received maternity benefits.

Ms Wadstein and Ms Macedo de Sheppard were concerned that measures dealing with reproductive hazards at work should not discriminate against women, and that the effects of these hazards on men should also be taken into account.

Ms Biryukova and Ms Macedo de Sheppard were also concerned at the lack of protection against discrimination on the basis of pregnancy in several

Canadian jurisdictions. Ms Peytcheva also noted the lack of protection afforded to domestic workers by some jurisdictions.

Several experts inquired as to the cost and availability of child care services in Canada, in relation to the demand, since child care is often the most important obstacle to women's equality in the job market. (Ms Olser, Ms Laiou-Antoniou, Ms Smith and Ms Ider.)

Article 12: Health Rights

Questions were asked on family planning programs, pre-natal and post-natal counselling, and the actual costs of health services.

Article 13: Economic and Social Benefits

Ms Biryukova inquired as to measures taken to assist single-parent families who receive insufficient income from maintenance orders.

Article 14: Rural Women

Ms Ider asked to what extent the unpaid house and farm work done by rural women was taken into account by the social security system.

Article 15: Legal Rights

Several experts referred to the discriminatory treatment of native women under the Indian Act, and expressed interest in knowing what measures were

taken to improve the economic and social status and their participation in society, to eliminate de facto discrimination against native women. (Ms Cortes, Ms Biryukova, Ms Ider, Ms Gonzalez.)

Ms Biryukova inquired whether anti-discriminatory provisions also applied to immigrant women.

Ms Smith asked whether financial assistance was provided to women submitting complaints of discrimination.

The equality provisions of the Canadian Charter of Rights and Freedoms were duly noted; Ms Evatt was interested in the results of the statute reviews undertaken to ensure compliance.

Article 16: Family Law

Experts were concerned by disparities between provinces with respect to the choice of name and domicile of a married woman, the equal splitting of family property, including pension credits, the minimum age of marriage in New Brunswick, measures taken to combat family violence, the rights of common law spouses and illegitimate children, and the legal status of abortion. (Ms Macedo de Sheppard, Ms Regent-Lechowicz, Ms Smith, Ms Evatt, Ms Guan Minquian, Ms Ider.)

III Consideration of Other States Parties' Reports

As of the end of the Fourth Session in January 1985, the Committee had considered 18 of the 26 reports submitted. While the Committee's questions are naturally related directly to the particular situation of the State Party whose report is being considered, some clarification of the meaning of the convention's provisions may be inferred through consistent trends in the comments:

- empirical data should be provided to show patterns of change in such matters as employment and education;

- acts of discrimination should be considered as serious violations of the law, and appropriate remedies and sanctions provided;

- 'special temporary measures' appear to include programs such as affirmative action, contract compliance and other incentives for employers;

- stereotyping of sex-based divisions of labour is a serious concern, and men should be required to assume a greater share of household responsibilities to reduce women's double burden; Media campaigns, revisions to school textbooks and advertising guidelines have been viewed as useful measures in that regard;

- those who exploit prostitution should not go unpunished, particularly when there are severe sanctions taken against prostitutes;

- the low participation of women in public life and as international representatives is serious cause for concern;

- the education system should effectively encourage women to enter non-traditional occupations;

- lower wages and higher unemployment for women, job segregation and inadequate representation of women at senior levels were evidence of de facto discrimination;

- measures dealing with mothers and pregnant women should not be over-protective, should not limit women's freedom in choosing to work outside the home, or encourage stereotypes by ignoring the father's role in child care;

- restrictions on family planning and the right to abortion are closely questioned;

- the state should provide financial support for child care services and parental leave;

- rural women require special attention with respect to employment opportunities, education, medical and credit rights;

- family violence is an issue which should be dealt with under the terms of the Convention.

IV Membership of the Committee on the Elimination of Discrimination Against Women

At its Fourth Session in January 1985, the Committee's membership was as follows:

Name of member	Country of nationality
Ms. Farida Abou El-Fetouh	Egypt
Ms. Desiree P. Bernard	Guyana
Ms. Aleksandra P. Biryukova	Union of Soviet Socialist Republics
Ms. Marie Caron	Canada
Ms. Irene R. Cortes	Philippines
Ms. Elizabeth Evatt	Australia
Ms. Aida Gonzalez Martinez	Mexico
Ms. Luvsandanzangyn Ider	Mongolia
Ms. Zagorka Ilic	Yugoslavia
Ms. Vinitha Jayasinghe	Sri Lanka
Ms. Chryssanthi Laiou-Antoniou	Greece
Ms. Raquel Macedo de Sheppard	Uruguay
Ms. Guan Minqian	China
Ms. Alma Montenegro de Fletcher	Panama
Ms. Landrada Mukayiranga	Rwanda

Ms. Edith Oeser	German Democratic Republic
Ms. Vesselina Peytcheva	Bulgaria
Ms. Maria Regent-Lechowicz	Poland
Ms. Maria Margarida de Rego da Costa Salema Moura Ribeiro	Portugal
Ms. Kongit Singegiorgis	Ethiopia
Ms. Lucy Smith	Norway
Ms. Esther Veliz Diaz de Villaivilla	Cuba
Ms. Margareta Wadstein	Sweden

SELECTIVE BIBLIOGRAPHY

A. INTERNATIONAL DOCUMENTS

1. Declaration on the Elimination of Discrimination Against Women

   Resolution 2263 (XXII) of 7 November, 1967 proclaimed by the General Assembly.

2. Convention on the Political Rights of Women

   Adopted March 31, 1953 by the General Assembly
   In force July 7, 1954
   Canada acceded on January 30, 1957.

3. International Covenant on Economic, Social and Cultural Rights

   Adopted by the General Assembly on December 16, 1966
   In force on January 3, 1976
   Canada acceded on May 19, 1976.

4. International Covenant on Civil and Political Rights

   Adopted by the General Assembly on December 16, 1966
   In force on March 23, 1976
   Canada acceded on May 19, 1976.

5. Convention on the Elimination of All Forms of Discrimination Against Women

   Adopted by the General Assembly on December 18, 1979
   In force on September 3, 1981
   Canada ratified on December 10, 1981.

6. World Plan of Action for the Implementation of the Objectives of the International Women's Year

   Resolution 3520 (XXX) of the General Assembly
   Plan was adopted on December 15, 1975
   Vote: 107-1-26 (Canada abstained).

7. Programme of Action for the Second Half of the United Nations Decade for Women

   Resolution 35/136 of the General Assembly
   Endorsing the Programme was adopted on December 11, 1980
   Vote: 132-3-9 (Canada voted against).

8. Resolution 37/61: Women in Public Life

   Adopted by the General Assembly on December 3, 1982 without a vote.

9. Resolution 37/63: Declaration on the Participation of Women in Promoting International Peace and Co-operation

   Adopted by the General Assembly on December 3, 1982 without a vote.

10. Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal of value (ILO) No. 100)

    Adopted June 29, 1951
    In force May 23, 1953
    In force for Canada: November 16, 1973.

11. Convention concerning Discrimination in respect of Employment and Occupation (ILO) No. 111

    Adopted June 25, 1958
    In force: June 15, 1960
    In force for Canada: November 26, 1965.

12. Convention concerning Employment Policy (ILO) No. 122

    Adopted July 9, 1964
    In force July 15, 1966
    In force for Canada: September 16, 1967.

13. Convention on the Nationality of Married Women

    Adopted February 20, 1957
    In force: August 11, 1958
    In force for Canada: January 19, 1960.

14. Universal Declaration of Human Rights

    Adopted and proclaimed by the General Assembly on December 16, 1948, by a vote of 48-0-8. (Canada voted in favour.)

15. ILO Declaration on Equality of Opportunity and Treatment for Women Workers

    Adopted without a vote by the International Labour Conference at its 60th session in Geneva in 1975 (pp. 880-881, Record of Proceedings).

16. OECD Declaration on Policies for the Employment of Women

    Resolution No. 70 of the Council, adopted by consensus on May 9, 1980. Canada is a member of the Council.

17. Report of Canada, Convention on the Elimination of All Forms of Discrimination Against Women, May 1983 (CEDAW/C/5/Add. 16, 21 July 1983). Available from the Department of the Secretary of State, Human Rights Directorate, Ottawa, K1A 0M5.

18. Report of the Committee on the Elimination of Discrimination Against Women, Fourth Session: General Assembly A/40/45.

19. Summary Records of the Committee on the Elimination of Discrimination Against Women. (Those dealing with Canada's Report are: CEDAW/C/SR.48, 54 and 61 - Fourth Session.)

20. Opening Statement and Responses to Questions by Canada's delegation to CEDAW, Jan. 1985, available from the Department of the Secretary of State, Human Rights Directorate, Ottawa, K1A 0M5.

B. MATERIALS ON SELECTED UNITED NATIONS INSTRUMENTS

1. Commission on the Status Women, 'Draft Convention on the Elimination of Discrimination Against Women,' U.N. Doc. E/CN.6/591/add.1 and Corr.1 (1976).

2. Ramcharan, B.G. (ed.), Human Rights: Thirty Years After the Universal Declaration, The Hague: Nijhoff, 1979.

3. Shelton, Dinah, 'International Enforcement of Human Rights: Effectiveness and Alternatives' (1980), American Society of International Law Proceedings.[6]

4. Sieghart, Paul, The Internation Law of Human Rights, Oxford: Oxford University Press, 1983.

5. United Nations Action in the Field of Human Rights, U.N. Doc. ST/HR/3 Rev. 2 (1983).

6. Vincent-Daviss, D., 'Human Rights Law: A Research Guide to the Literature' (1981-82), 14 New York University Journal of International Law and Politics 487.

C. RELEVANCE OF INTERNATIONAL LAW TO THE INTERPRETATION OF THE CHARTER

1. Claydon, John, 'The Application of International Human Rights Law by Canadian Courts', (1981) 30 Buffalo L.R. 727.

2. Claydon, John, 'International Human Rights Law and the Interpretation of the Canadian Charter of Rights and Freedoms,' (1982) 4 S.C.L.R. 287.

3. Cohen, Maxwell and Anne F. Bayefsky, 'The Canadian Charter of Rights and Freedoms and Public International law', (1983) 61 Can. Bar. Rev. 265.

4. Green, L.C., 'Aboriginal Peoples, International Law and the Canadian Charter of Rights and Freedoms,' (1983) 61 Can. Bar. Rev. 339.

5. Henkin, Louis, ed., The International Bill of Rights (New York: Columbia University Press, 1981).

6. McKean, Warwick, A., Equality and Discrimination Under International Law (Oxford: Clarendon, 1983).

7. Mendes, Errol, 'Interpreting the Canadian Charter of Rights and Freedoms: Applying International and European Jurisprudence on the Law and Practice of Fundamental Rights', (1982) 20 Alta. L. Rev. 383.

8. Tarnopolsky, Walter, S., 'A Comparison Between the Canadian Charter of Rights and Freedoms and the International Covenant on Civil and Political Rights' (1983), 8 Queen's Law Journal 211.

9. Turp, Daniel, 'Le recours au droit international pour les fins d'interprétation de la Charte canadienne des droits de la personne: un bilan jurisprudentiel', (1983) unpublished. (Available from the author, c/o Faculte de droit, Université de Montréal.)

10. Vasak, Karil, ed., The International Dimensions of Human Rights (Westport, Connecticut: Greenwood Press, 1982).

D. THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS AND EQUALITY RIGHTS

1. Abella, Judge Rosalie, Equality in Employment: A Royal Commission Report, Judge Rosalie Silberman Abella, Commissioner - Ottawa, Supply and Services Canada (1984).

2. Canadian Advisory Council on the Status of Women, Women, Human Rights and the Constitution, Ottawa, 1981.

3. Charter of Rights Educational Fund, Report on the Statute Audit Project, 1985 P.O. Box 6989, Stn A, Toronto, M5W 1X7.

4. Eberts, Mary, Equality Rights Under the Canadian Charter of Rights and Freedoms and the Statutes of Canada, Preliminary Study/Paper prepared for Status of Women Canada, March 1983.

5. Eberts, Mary & Bayefsky, Anne, Equal Rights and the Canadian Charter of Rights and Freedoms, Toronto: Carswell (1985) (not yet published).

6. Pichaud, J., 'Analysis of the Charter and its Application to Labour Law' (1984) 2 Dalhousie L.J. 402 (see pp. 422-425).

7. Hough, B., Equality Provision in the Charter: Their Meaning and Interrelations with Federal and Provincial Human Rights Acts in The Canadian Charter of Rights: Law Practice Revolutionized.

8. McGinn, F., 'The Canadian Charter of Rights and Freedoms: Its Impact on Law Enforcement,' (1982) 31 U.N.B.L.J. 177.

9. The National Symposium on Equality Rights, Toronto, 1985 (not yet published).

10. Roman, Andrew, 'The Charter of Rights: Renewing the Social Contract? (1982/83) 8 Queen's L.J. 188.

11. Vickers J. McC., 'Majority Equality Issues of the Eighties' (1983) 1 Can. Human Rights Y.B. 47.

12. Williams, W.W., Sex Discrimination Under the Charter: Some Problems of Theory (1983) 4 C.H.R.R. C/83-1.

E. EMPLOYMENT

1. Boyd, M., Canadian Attitudes Toward Women: Thirty Years of Change, Labour Canada, Women's Bureau, Ottawa, 1984.

2. Denton, M.A. and Hunter, A.A., Economic Sectors and Gender Discrimination in Canada: A Critique and Test of Block and Walker...and Some New Evidence, Labour Canada, Women's Bureau, Ottawa 1984.

3. Gunderson, M. and Reid, F., Sex Discrimination in the Canadian Labour Market: Theories, Data and Evidence, Labour Canada, Women's Bureau, Ottawa, 1983.

4. Labour Canada, 1984 Canadian Women and Job Related Laws, Ottawa, 1985.

5. Labour Canada, Women's Bureau, Maternity and Child Care Leave in Canada, Ottawa, 1984.

6. Labour Canada, Part-time Work in Canada: Report of the Commission of Inquiry into Part-time Work, Ottawa, 1983.

7. Labour Canada, In The Chips: Opportunities, People, Partnerships: Report of the Labour Canada Task Force on Micro Electronics and Employment, Ottawa, 1982.

8. Labour Canada, Women's Bureau, Women in the Labour Force: Part 1: Participation, Ottawa, 1983.

9. Labour Canada, Women's Bureau, Women in the Labour Force: Part 2: Earnings, Ottawa, 1984.

10. Labour Canada, Women's Bureau, Women in the Labour Force: Part 3: Facts and Figures, Ottawa, 1985.

11. Neimann, L., Wage Discrimination and Women Workers: The Move Towards Equal Pay for Work of Equal Value in Canada, Labour Canada, Women's Bureau, Ottawa, 1984.

12. Ornstein, Michael D., Accounting for Gender Differentials in Job Income in Canada: Results from a 1981 Survey, Labour Canada, Women's Bureau, Ottawa, 1983.

13. Ornstein, M.D. Gender Wage Differentials in Canada: A Review of Previous Research and Theoretical Framework, Labour Canada, Women's Bureau, Ottawa, 1982.

F. CHILD CARE

1. Canada, Health & Welfare, Status of Day Care in Canada, Ottawa, 1983.

2. Canadian Council on Social Development, The 2nd Canadian Conference on Day Care: Proceedings and Reflections, Ottawa, 1983.

3. Canada, Report of the Ministerial Task Force on Child Care and Parental Leave, (Cooke Task Force, Status of Women Canada, Ottawa (to be published - autumn 1985).

G. DISABLED WOMEN

1. Canada, House of Commons, Obstacles. Report of the Special Committee on the Disabled and Handicapped, Ottawa, February 1981.

2. Canada, House of Commons, Obstacles. Progress Report of the Special Committee on the Disabled and Handicapped, Ottawa, June 1982.

3. Canada, Secretary of State, Surmounting Obstacles: Third Report, Ottawa, 1984.

4. A Report of the Canadian Organizing Committee for 1981. The International Year of Disabled Persons, Directions.

H. IMMIGRANT WOMEN

1. Arnopoulos, Sheila McLeod, 'Problems of Immigrant Women in the Canadian Labour Force.' Canadian Advisory Council on the Status of Women, Ottawa, January, 1979.

2. Canada, House of Commons, Equality Now! Report of the Special Committee on Visible Minorities in Canadian Society, Ottawa, 1984.

3. Canada, Multiculturalism, The Immigrant Women in Canada: A Right to Recognition. Part I. Report of the Proceedings of the Conference, Toronto, Ont., Mar. 20-22, 1981.
Part II. Recommendations from the Conference, Toronto, Ont., Mar. 20-22, 1981.

4. Janke, Bunder & Yaron, Ronny. A Report on Conditions in the Labour Market and Training Opportunities for Non-English Speaking Immigrant Women in Metro Toronto, Toronto: Working Women Community Centre, 1979.

5. Ontario Ministry of Labour, Problems of Immigrant Women, Past and Present, Toronto: Ontario Ministry of Labour, 1979.

6. Ontario Ministry of Labour, 'Visible Minority Women and Employment: a Selected Bibliography.' Labour Topics. 6(8) Toronto: Ontario Ministry of Labour, 1983.

7. Papp, Berninie, Sander, Catherine and Skiada, Sophia, 'L'immigrante: Les Problemes et Solutions,' 1984.

8. Quebec. Communautes culturelles et Immigration. Femmes Immigrees, A Nous La Parole. Actes du Colloque, Montreal, 4, 5 et 6 juin, 1982. Quebec: Gouvernmement du Quebec, 1982.

I. RURAL WOMEN

Ontario Agriculture and Food, McGhee, M., Women in Rural Life: The Changing Scene, Toronto, 1984.

J. VICTIMS OF CRIME

Canada, Federal-Provincial Task Force Report on Justice for Victims of Crime, Ottawa, 1983.

K. WOMEN AND AGING

1. Canada Health & Welfare, Canadian Governmental Report on Aging, Ottawa, 1982.

2. Canada, National Advisory Council on Aging, Moving Ahead with Aging in Canada, Ottawa, 1983.

3. Canada, National Council of Welfare, Sixty-five and Older. A report by the National Council of Welfare on the Incomes of the Aged, Ottawa, February 1984.

L. WOMEN AND HOUSING

McClain, Janet & Doyle, Cassie, Women and Housing: Changing Needs and the Failure of Policy, Canadian Council on Social Development, Ottawa, 1984.

M. WOMEN AND SPORT

1. Canada, Fitness and Amateur Sport, Changing Times: Women and Physical Activity, A Canada Fitness Survey, Ottawa, 1984.

2. Hall, M. Ann & Richardson, Dorothy A., Fair Ball: Towards Sex Equality in Canadian Sport. The Canadian Advisory Council on the Status of Women, Ottawa, 1982.

3. Lenskyj, Helen, Discussion Paper - Female Participation in Sport: The Issue of Integration versus Separate but Equal, Sport Canada, Women's Program, Ottawa, 1984.

N. WOMEN AND POVERTY

Canada, National Council of Welfare, Women and Poverty. A report. Ottawa, October 1979.

O. SEX STEREOTYPING

1. Canadian Radio, Television and Telecommunications Commission, Images of Women: Report of the Task Force on Sex-Role Stereotyping in the Broadcast Media, Ottawa, 1982.

2. Eichler, Margrit, The Relationship Between Sexist, Non-Sexist, Women-Centred and Feminist Research, Ontario Institute for Studies in Education, Toronto, August 1983.

3. Spender, Dale (Ed.), Men's Studies Modified: The Impact of Feminism on the Academic Disciplines, Pergamon Press, Toronto, 1981.

4. Vickers, Jill McCalla (Ed.), Taking Sex Into Account: The Policy Consequences of Sexist Research, Carleton University Press Inc., Ottawa, 1984.

P. HEALTH

1. Canada, Health and Welfare, Seminar on Women in Health and Development, Proceedings, Ottawa, April 13, 1983, Office of the Senior Advisor, Status of Women.

2. Canada, Health an Welfare, Reproductive Health; Activities and Concerns, Report of a Health and Welfare Task Force on Reproductive Health, August 1983.

3. Canada, Therapeutic Abortions, Statistics Canada, Ottawa, (Cat. No. 82-211 Annual).

4. Chenier, Nancy Miller, Reproductive Hazards at Work: Men, Women and the Fertility Gamble, Canadian Advisory Council on the Status of Women, Ottawa, 1982.

5. Cook, Rebecca J., Bernard M. Dickens, Emerging Issues in Commonwealth Abortion Laws, 1982 Commonwealth Secretariat, London, England, 1982.

6. Copperstock, Ruth, Jessica Hill, The Effects of Tranquilization: Benzodiazapine Use in Canada, Health and Welfare, Ottawa, 1982.

7. Lapierre, Louise, Canadian Women: Profile of Their Health, Statistics Canada, April 1984. (Cat. No. 82-542E).

8. Brief to Health Professions Legislative Review (2nd Submission) Midwives Coalition, Toronto, 1984.

9. Brief on Midwifery Care in Ontario, Ontario Association of Midwives, The Nurse Midwives Association of Ontario, Toronto, December 1983.

10. The Pregnant Worker, A Resource Document for Health Professionals (Working Title), prepared by the Federal/Provincial Working group on the Development of Guidelines to Control Risks for Women in Industry, of the Federal/Provincial Advisory Committee on Environmental and Occupational Health (in preparation).

Q. WIFE BATTERING

1. British Columbia, Information Relating To Wife Assault in British Columbia, Ministry of Labour, Women's Programmes and Ministry of Attorney General Victoria, January 1985.

2. Browning, James Stopping the Violence: Canadian Programmes for Assaultive Men, Health and Welfare Canada, Ottawa, 1984.

3. Canada Federal-Provincial-Territorial Report on Wife Battering (prepared for the Federal-Provincial-Territorial Ministers Responsible for the Status of Women) Status of Women Canada, Ottawa, May 1984.

4. MacLeod, Linda, Wife Battering in Canada: The Vicious Circle, Canadian Advisory Council on the Status of Women, Ottawa, 1980.

R. EDUCATION

1. Crocker, Dr. Olga, Women Within Canadian Universities, University of Windsor, Windsor, date unknown.

2. Devereaux, M.S., Edith Rechnitzer, Higher Education - Hired? Statistics Canada, Labour Canada, Ottawa, August 1980.

3. Science for Every Student: Educating Canadians for Tomorrow's World, Science Council of Canada Ottawa, April 1984.

4. Symons, T. and Page, J.E., Some Question of Balance: Human Resources, Higher Education and Canadian Studies, Association of Universities and Colleges of Canada, 1984.

S. ARTS AND CULTURE

1. Australia Arts Council, Women in the Arts: A Strategy for Action, Sydney, Australia, 1984.

2. Canada, Federal Cultural Policy Review Committee, Summary of Briefs and Hearings, Department of Communications, Ottawa, January 1982.

3. Canada, Report of Federal Cultural Policy Review Committee, Department of Communications, Ottawa, November 1982.

4. Women and Culture: A Brief to the Federal Cultural Policy Review Committee, Canadian Advisory Council on the Status of Women, Ottawa, March 1981.

T. WOMEN AND THE FAMILY

1. Abella, Rosalie and L'Heaureux-Dube (Eds.), Family Law: Dimensions of Justice, Canadian Institute for the Administration of Justice, Butterworths, Toronto, 1983.

2. Canada - The Benefits and Cost-Effectiveness of a Central Registry of Maintenance and Custody Orders. Status of Women Canada, Ottawa, 1985.

3. Canada - Marriages and Divorces, Vital Statistics, Statistics Canada, Volume II, 1982, Catalogue No. 84-205, Annual.

4. Canada - Final Report of the Federal-Provincial Committee on Enforcement of Maintenance and Custody Orders in Canada, Department of Justice, Ottawa, 1983.

5. Canadian Advisory Council on the Status of Women, Family Law Forum (Papers - to be published in 1985).

6. Dulude, Louise, Love, Marriage and Money, Canadian Advisory Council on the Status of Women, Ottawa, 1984.

7. Eichler, Margrit, Families in Canada Today, Ontario Institute for Studies in Education, Gage Publishing Ltd., Toronto, 1983.

8. Steel, Freda, 'Government Policy and the Economics of Divorce: Computer Enforcement of Maintenance,' in Women, Law and the Economy, Butterworths, Toronto, 1985.

APPENDIX: PROVISIONS OF CEDAW RELATED TO OTHER INTERNATIONAL INSTRUMENTS BY ARTICLE/PARAGRAPH

Convention on the Nationally of Married Women: adopted by the General Assembly on 20 February 1957; in force on 11 August 1958; in force for Canada on 19 January 1960.

Article	CEDAW Article
1	9
2	9

Convention on the Political Rights of Women: adopted 31 March 1953 by the General Assembly; in force 7 July 1954; acceded to by Canada on 30 January 1957.

1	7
2	7
3	8

Declaration on the Elimination of Discrimination Against Women: adopted unanimously by the General Assembly on 7 November 1967.

7	2
3	5(a)
6.2(c)	5(b)
8	6
4	7
4(c)	7(b)
4(c)	8
9	10(a-b)
9	10(d)
9(d)	10(e)
9(e)	10(h)
10(1)(c)	11(1)(e)
10(2)	11(2)
9(2)	11(2)(b)
10(2)	11(2)(c)
10(1)(e)	13(a)
6(1)(a)	15(2)
16(2)(a)	16(1)(a)
6(2)(a)	16(1)(b)
6(2)(b)	16(1)(c)
6(2)	161(d-f)

Declaration on the Participation of Women in Promotion International Peace and Co-operation: adopted by the General Assembly on 3 December 1982 without a vote.

Article	CEDAW Article
5	8
12	8

ILO Convention No. 111: Convention Concerning Discrimination in Respect of Employment and Occupation: adopted on 25 June 1958; in force on 15 June 1960; acceded to by Canada on 26 November 1965.

2	11(1)
3	11(1)
1(3)	11(1)(b)
1(3)	11(1)(c)

ILO Convention No. 122: Convention Concerning Employment Policy: adopted on 9 July 1964; in force on 15 July 1966; acceded to by Canada on 16 September 1967.

1(2)	11(1)(b)

ILO Convention No. 100: Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value: adopted on 29 June 1951; in force on 23 May 1953; acceded to by Canada on 16 November 1973.

2.1	11(1)(d)
3	

International Covenant on Civil and Political Rights: adopted by the General Assembly on 16 December 1966; in force on 23 March 1976; acceded to by Canada on 19 May 1976; entered into force in Canada 19 August 1976.

8	6
25(b)	7
25(c)	8
26	15(1)
74(1)	15(2)
12(1)	15(4)
23(2)	16(1)(a)
23(3)	16(1)(b)
23(4)	16(1)(c)
23(4)	161(d-f)

International Covenant on Economic, Social and Cultural Rights: adopted by the General Assembly on 16 December 1966; in force on 3 January 1976; acceded to by Canada on 19 May 1976; entered into force in Canada 19 August 1976.

Article	CEDAW Article
13	10(a-b)
13(2)(d)	10(e)
13(2)(d)	10(f)
6(1)	11(1)(a)
7(c)	11(1)(c)
7(a)(i)	11(1)(d)
10(2)	11(2)(b)
10(2)	11(2)(d)
3	12(1)
12	12(1)
10(2)	12(2)
9	13(a)
3	13(b)
15(1)	13(b)
10(1)	16(1)(b)

O.E.C.D. Declaration on Policies for the Employment of Women: agreed to by Canada on 17 April 1980

preamble	5(b)

Programme of Action for the Second Half of the United Nations Decade for Women: Equality, Development and Peace: adopted at the 1980 conference by a vote of 94-4-22 (Canada voting against); endorsed by the General Assembly as Resolution 35/136 on 11 December 1980 by a vote of 132-3-9 (Canada voting against).

Paragraph	CEDAW Article
73	8
238	8
239	8
165	10(e)
108	11(1)
115	11(1)
121	11(1)
122	11(1)
123	11(1)
128	11(1)
139	11(1)
140	11(1)
117	11(1)(b)
130	11(1)(b)
111	11(1)(c)
116	11(1)(c)
124	11(1)(c)
131	11(1)(c)
133	11(1)(c)
109	11(1)(d)
126	11(1)(f)
113	11(2)
125	11(2)
145	12(2)
152	12(2)

Universal Declaration of Human Rights: adopted and proclaimed by the General Assembly on 10 December 1948. Vote: 48-0-8 (Canada in favour).

Article	CEDAW Article
7	2(g)
4	6
21(3)	7
21(1-2)	7(b)
21(2)	8
5	9
26	10(a-b)
23(1)	11(1)(a)
24	11(1)(c)
22	11(1)(e)
25	12(1)
7	15(1)
13(1)	15(4)
16(1)	16(1)(a)
16(1)	16(1)(c)
17	16(1)(h)

Women in Public Life: UN Resolution 37/61: adopted by the General Assembly on 3 December 1982 without a vote.

Article	CEDAW Article
2	7(b)
2	8
3	8

World Plan of Action for the Implementation of the Objectives of the International Women's Year: adopted at the 1975 conference by a vote of 83-3-18 (Canada abstaining); endorsed by the General Assembly as Resolution 3520 (XXXO on 15 December 1975 by a vote of 107-1-26 (Canada abstaining).

Paragraph	CEDAW Article
130	5(b)
159	6
59	7
60	7
59	7(b)
61	7(c)
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165	10(a-b)
166	10(c)
90	11(1)
98	11(1)
106	11(1)
107	11(1)
91	11(1)(b)
97	11(1)(b)
90	11(1)(d)
100	11(2)(b)
101	11(2)(c)
110	12(1)
113	12(1)
113	12(2)
134	13(a)
128	16(1)(a)
128	16(1)(b)
130	16(1)(c)
132	16(1)(d-f)
128	16(2)
129	16(2)